

MONTANA LEGISLATIVE HISTORY

Chapter 9 19 77

Bill H 44 S _____ Original bill & history ✓ c

H. Committee on Fish and Game

S. Committee on Fish and Game

Hearing Date(s) Jan 11 ✓ c

Hearing Date(s) Feb 02 ✓ c

Jan 13 ✓ c

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Date Out Jan 13 ✓ c

Feb 02 ✓ c

Did this bill originate in an interim committee? ____ Yes ____ No

Committee _____

Report _____

1 HOUSE BILL NO. 44
2 INTRODUCED BY BARDANOUVE
3
4 A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND
5 CLARIFY THE LAWS RELATING TO FISH AND GAME; REPEALING
6 SECTIONS 26-303.4, 26-307.1, 26-502, 26-909, AND 26-922,
7 R.C.M. 1947."
8
9 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:
10 Section 1. Section 26-110.3, R.C.M. 1947, is amended
11 to read as follows:
12 "26-110.3. Powers Enforcement powers of
13 wardens ~~enforcement~~ ~~search and seizure~~ ~~arrest~~. A warden
14 
15 (1) ~~Serve~~ serve a subpoena issued by a court for the
16 trial of a violator of the fish and game laws;
17 (2) ~~Search~~ search, without a warrant, any tent not
18 used as a residence, any boat, vehicle, box, locker, basket,
19 creel, crate, game bag, or package, or their contents, upon
20 probable cause to believe that any fish and game law or
21 commission rule, for the protection, conservation, or
22 propagation of game, fish, birds, or fur-bearing animals,
23 has been violated;
24 (3) ~~Search~~ search, with a search warrant, any dwelling
25 house or other building;

1 (4) ~~Seize~~ seize game, fish, game birds, and
2 fur-bearing animals, and any parts of them, taken or
3 possessed in violation of the law or the rules of the
4 commission;
5 (5) ~~Seize~~ seize and hold, subject to law or the orders
6 of the commission, devices which have been used to
7 unlawfully take game, fish, birds, or fur-bearing animals;
8 (6) ~~Arrest~~ arrest, in accordance with ~~title~~ Title 95,
9 chapter 6, a violator of a fish and game law or rule of the
10 commission, violation of which is a misdemeanor;
11 (7) ~~Exercise~~ exercise the other powers of peace
12 officers in the enforcement of the fish and game laws, the
13 rules of the commission, and judgments obtained for
14 violation of those laws or rules."
15 Section 2. Section 26-132, R.C.M. 1947, is amended to
16 read as follows:
17 "26-132. Authority for commission to make agreement
18 with Indians concerning hunting and fishing. ~~That the state~~
19 ~~fish and game~~ The commission ~~be, and the same is hereby~~
20 ~~authorized, empowered and enabled to~~ may negotiate and
21 conclude an agreement with the council of the Confederated
22 Salish and Kootenai tribes of the Flathead Indian
23 reservation for the purpose of obtaining and establishing
24 for the citizens of Montana, regularly licensed to hunt and
25 fish in the state, the privileges of hunting and fishing on

INTRODUCED BILL

1 Indian lands on the Flathead Indian reservation, ~~and~~ for
 2 the purpose of the conservation and protection of fish, and
 3 game and fur-bearing animals on such Indian lands, and on
 4 lands adjacent thereto; and for the further purposes of
 5 setting dates for the opening and closing of seasons for
 6 hunting and fishing on such lands for Indians and ~~whites~~
 7 ~~non-Indians~~ alike, opening and closing of streams and land
 8 areas for hunting and fishing, ~~and of doing what in its~~
 9 judgment is necessary by way of granting to such tribal
 10 Indians state permits to hunt and fish, to be issued without
 11 charge to such Indians, of stocking streams and land areas
 12 of such Indian lands for the common benefit, of policing
 13 such Indian lands for the protection of fish and game, and
 14 in general ~~to carry~~ carrying out the purposes of this ~~act~~
 15 section. ~~Provided, however, that if~~ If any part of such
 16 ~~treaty agreement shall provide~~ provides for the payment of
 17 money ~~in the premises~~ to such the tribes, ~~such that~~ part
 18 shall must first have the approval of the state
 19 legislature."

20 Section 3. Section 26-134, R.C.M. 1947, is amended to
 21 read as follows:

22 "26-134. Allocation of funds to school districts. The
 23 county commissioners of any county receiving ~~such~~ funds, as
 24 provided in 26-133, ~~shall be, and they are, hereby~~
 25 ~~authorized to~~ may allocate, in such amounts as they

1 determine, any portion of ~~such~~ the funds to any school
 2 district in ~~said the~~ county, ~~which whenever the school~~
 3 district ~~shall contain~~ contains any of ~~said department~~
 4 lands, ~~in such amounts as they shall determine, and any~~ any
 5 balance remaining, after allocations have been made to
 6 school districts, shall be credited to the general fund of
 7 ~~said the~~ county."

8 Section 4. Section 26-202.5, R.C.M. 1947, is amended
 9 to read as follows:

10 "26-202.5. ~~Provision for nonresident~~ Nonresident bear
 11 license. (1) The state fish and game commission may issue
 12 special licenses ~~in the manner provided in subsection 45 of~~
 13 ~~section 26-104, as provided in 26-104.3~~, to nonresidents to
 14 hunt black or brown bear, including any color phase of black
 15 bear. ~~Such~~ The special nonresident license shall be valid
 16 only for the area designated on the license and shall expire
 17 on ~~the thirty-first (31st) day of August 31~~ of each year.
 18 The fee for ~~such the~~ special nonresident license shall be
 19 ~~thirty-five dollars (\$35)~~. There shall be a permit included
 20 with ~~such the~~ special nonresident license, to authorize the
 21 holder thereof to ship, transport, or remove out of state
 22 any bear or part thereof taken under authority of ~~said the~~
 23 license.

24 (2) The fish and game commission is authorized to
 25 promulgate rules and regulations relative to tagging,

possession, or transportation of bear within or without the state."

Section 5. Section 26-204, R.C.M. 1947, is amended to read as follows:

"26-204. Application for license. ~~(1) Sec 1~~ A fishing or hunting license ~~shall~~ may be procured from the ~~state fish and game~~ director, ~~or any state fish and game~~ warden, or any authorized agent of the ~~state fish and game~~ director. The applicant shall state his name, age, occupation, place of residence, post-office address, the length of time in the state of Montana, whether a citizen of the United States or an alien, and such other facts, data, or descriptions as may be required by the commission. The statements made by the applicant shall be subscribed to before the officer or agent issuing ~~said~~ the license.

(2) It is unlawful to subscribe to any application containing a material false statement. Any material false statement contained in an application renders it, and any license issued pursuant to it, ~~null and~~ void. Any person violating any provision of this statute is guilty of a misdemeanor."

Section 6. Section 26-215, R.C.M. 1947, is amended to read as follows:

"26-215. ~~Exemption from general provisions~~ Spotlighting unlawful. (1) It ~~shall be~~ is unlawful for any

person or one ~~44~~ or more of a group of persons together to throw or cast the rays of a spotlight having a luminance of greater than .75 candlepower attached to or cast from a motorized vehicle into any field, pasture, woodland, forest, or prairie wherein wildlife or domestic livestock may be, or may be reasonably expected to be, while having in his possession or their possession or under control a firearm or other implement whereby any wildlife or domestic animal could be killed by aid of an artificial light; ~~provided,~~ however, except that all officers authorized to enforce the game and livestock laws of the state of Montana and all landowners, lessees, or their agents, while on their own lands in connection with their legitimate activities, and employees of such landowners, lessees, and agents ~~shall be~~ are exempt from the provisions of this ~~act~~ section.

(2) ~~Provided the~~ The provisions of this section shall do not apply where the headlights of a motor vehicle, operating and proceeding in a normal manner, on any highway or roadway, cast a light upon such animal on or adjacent to the highway or roadway, and there is no intent or attempt to locate that animal.

(3) Minors under ~~fifteen~~ fifteen years of age may fish for and take fish, during the open season without a license, provided, however, that ~~However,~~ no nonresident person, under the age of ~~fifteen~~ fifteen years, ~~shall~~ may fish

1 is or on any Montana waters without first having obtained a
 2 Class B, B-2, or B-3 fishing license, unless ~~such the~~
 3 nonresident person under the age of ~~fifteen~~ (15) years shall
 4 be is in the company of an adult in possession of a valid
 5 Montana fishing license, ~~provided that the~~ The limit of
 6 fish for ~~such the~~ nonresident person and the accompanying
 7 adult, combined, shall may not exceed the limit for one
 8 adult as established by law or by ~~regulation~~ rule of the
 9 commission.

10 (4) A person convicted of violating subsection ~~(2)~~ (1)
 11 of this section shall be fined not to exceed ~~five hundred~~
 12 ~~dollars~~ (\$500) or be imprisoned in the county jail for any
 13 term not to exceed ~~six~~ (6) months, or both."

14 Section 7. Section 26-217, R.C.M. 1947, is amended to
 15 read as follows:

16 "26-217. Alteration or transfer of license. No person
 17 shall may at any time alter or change in any material
 18 manner, or loan or transfer to another, any license ~~issued~~
 19 ~~in pursuance to the provisions of this act, nor shall may~~
 20 any person other than the person to whom it is issued use
 21 ~~the same it. Any person who shall swear or affirm to any~~
 22 ~~false statement in application for a hunting, fishing or~~
 23 ~~trapping license, shall be guilty of a misdemeanor, and, on~~
 24 ~~conviction thereof, shall be punished as provided by law.~~
 25 ~~Any false statement contained in any application for such~~

1 ~~license shall render the license null and void."~~

2 Section 8. Section 26-230, R.C.M. 1947, is amended to
 3 read as follows:

4 "26-230. Application — ~~hunting, fishing or trapping~~
 5 ~~license tags to be affixed or recorded on wildlife~~
 6 ~~conservation license — fees stamp attachment — fee —~~
 7 expiration. (1) A wildlife conservation license shall be
 8 sold upon written application. The application shall contain
 9 the applicant's ~~in such form and containing his name, age,~~
 10 occupation, place of residence, post-office address, and
 11 length of time in the state of Montana; state whether the
 12 applicant is a citizen of the United States or an alien ~~and~~
 13 ~~present a driver's license or other identification to~~
 14 ~~substantiate such information and shall; and~~ be subscribed
 15 by the applicant. The applicant shall present a driver's
 16 license or other identification to substantiate the
 17 information.

18 (2) Hunting, fishing, or trapping licenses in the form
 19 of tags or stamps issued to a holder of a wildlife
 20 conservation license must be affixed to or recorded on the
 21 wildlife conservation license according to such ~~regulations~~
 22 rules as the commission may prescribe.

23 (3) Resident and nonresident wildlife conservation
 24 licenses may be purchased for a fee of ~~one dollar~~ (\$1).

25 (4) Licenses issued shall be void after the thirtieth

1 ~~(30th)~~ day of April 30 next succeeding their issuance."

2 Section 9. Section 26-301, R.C.M. 1947, is amended to

3 read as follows:

4 "26-301. Restrictions of on manner of taking and

5 possessing fish and game and powers of commission relating

6 thereto. (1) It ~~shall be~~ is unlawful for anyone to take,

7 capture, shoot, kill, or attempt to take, capture, shoot, or

8 kill, any game animal, or game bird from any ~~self-propelled~~

9 self-propelled or drawn vehicle, or on, or from any public

10 highway in the state of Montana, or by the aid or with the

11 use of any set gun, ~~jack-light~~ jacklight, or other

12 artificial light, trap, snare, or salt lick, nor shall may

13 any such set gun, ~~jack-light~~ jacklight, or other artificial

14 light, trap, snare, salt lick, or other device to entrap or

15 entice game animals or game birds be used, made, or set,

16 ~~nor may rifles~~ Rifles may not be used to hunt or shoot

17 upland game birds unless the use of rifles is permitted by

18 the commission, ~~provided, however, that this~~ This does not

19 prohibit the shooting of wild waterfowl from blinds over

20 decoys with a shotgun only, not larger than a number ~~ten~~

21 ~~(10)~~ gauge, fired from the shoulder, nor shall may any game

22 fish be caught, captured, or taken, or attempted to be

23 caught, captured, or taken by the aid or with the use of any

24 gun, or trap, nor shall may any such set gun, ~~or~~ trap, or

25 other device to entrap game fish be used, made, or set.

1 (2) (a) No game birds or game or fur-bearing animals

2 shall may be killed, taken, or shot at from any aircraft,

3 nor shall may any aircraft be used for the purpose of

4 concentrating, pursuing, driving, rallying, or stirring up

5 any game or migratory birds, or game or fur-bearing

6 animals, nor shall may any powerboat, sailboat, or any boat

7 under sail or any floating device towed by a powerboat,

8 sailboat, or any boat under sail be used for the purpose of

9 killing, capturing, taking, pursuing, concentrating,

10 driving, or stirring up any upland game birds, or game or

11 fur-bearing animals.

12 (b) No person in an aircraft in the air shall may spot

13 or locate any game, or migratory bird, or game or

14 fur-bearing animals animal and communicate the location or

15 approximate location thereof by any signals whatsoever,

16 whether radio, visual, or otherwise, to any person or

17 persons then on the ground.

18 (3) No person shall may take into a field or forest,

19 or have in his possession while out hunting, any device or

20 mechanism devised to silence, ~~or~~ muffle, or minimize the

21 report of any firearms, whether such device or mechanism be

22 operated from or attached to any firearm.

23 (4) No person may use a shotgun to hunt, kill, or

24 shoot deer except with loads as specified by the commission.

25 (5) No person shall may chase with dogs any of the

1 game or fur-bearing animals as defined by the fish and game
 2 laws of this state; ~~provided, however, that~~ livestock
 3 owners, ~~or~~ employees of the ~~state fish and game~~ commission
 4 and of the federal fish and wildlife service may use dogs in
 5 pursuit of stock-killing bears, and stock-killing mountain
 6 lions, ~~or may use~~ other means of taking stock-killing bears
 7 and stock-killing mountain lions, except the use of the ~~dead~~
 8 ~~fall deadfall~~, ~~providing, however, that traps~~ Traps used in
 9 capturing bear bears shall be inspected twice each day,
 10 which ~~inspection shall~~ inspections are to be twelve (12)
 11 hours apart, ~~and provided further, that a~~ A person may take
 12 game birds during the open season ~~thereon~~ with the aid of a
 13 dog or dogs ~~and say~~, Any person or association organized for
 14 the protection of game, may run field trials at any time
 15 upon obtaining written permission from the ~~state fish and~~
 16 ~~game~~ director.

17 (6) The ~~state fish and game~~ commission shall have the
 18 power to designate certain waters where ~~set lines~~ setlines
 19 may be used to fish for certain species of game or nongame
 20 fish, and the commission may designate the number of hooks
 21 and lines and the length of line or lines which may be used
 22 as ~~set lines~~ setlines.

23 (7) Game fish shall be taken only by angling, that is
 24 by hook and single line in hand or single rod in hand, or
 25 within immediate control, ~~this~~ This does not prevent,

1 however;

2 (a) the snagging of paddlefish, coho (silver salmon),
 3 and kokanee (sockeye salmon) when the commission shall
 4 ~~declare~~ declares an open season when paddlefish, coho
 5 (silver salmon), and kokanee (sockeye salmon) may be taken
 6 by snagging;

7 (b) the taking of paddlefish with long bow and arrow
 8 when the commission shall ~~declare~~ declares an open season
 9 when paddlefish may be taken by long bow and arrow;

10 (c) the taking of walleyed pike, sauger, northern
 11 pike, and nongame fish with spear or gig when the commission
 12 shall ~~declare~~ declares an open season for taking walleyed
 13 pike, sauger, northern pike, and nongame fish with spear or
 14 gig, ~~or~~;

15 (d) the use of landing net or gaff to land a game fish
 16 after the same has been hooked by angling as above
 17 specified, ~~nor does it prevent~~; or

18 (e) the taking of minnows other than game fish variety
 19 by the use or aid of a net not to exceed ~~twelve~~ (12) feet in
 20 length and ~~four~~ (4) feet in width, in such waters as may be
 21 designated by the commission.

22 (8) No person, while hunting game animals or game
 23 birds, shall ~~may~~ use a motor-driven vehicle ~~or any~~ other
 24 than on an established road or trail, unless he has reduced
 25 a big game animal to possession and cannot easily retrieve

1 ~~said the~~ big game animal, ~~in which~~ In that case a
 2 motor-driven vehicle may be used to retrieve the big game
 3 animal, except in areas where more restrictive regulations
 4 apply or where the landowner has not granted such
 5 permission, ~~provided that after such,~~ after the retrieval,
 6 ~~such the~~ motor-driven vehicle is ~~again to be~~ returned to an
 7 established road or trail by the shortest possible route.
 8 For purposes of safety and allowing normal travel, a
 9 motor-driven vehicle may be parked on the roadside or
 10 directly adjacent to ~~said a~~ road or trail. No person, while
 11 hunting game animals or game birds, ~~shall may~~ drive or
 12 attempt to drive, run or attempt to run, molest or attempt
 13 to molest, flush or attempt to flush, or harass or attempt
 14 to harass any game animal or game bird with the use or aid
 15 of any motor-driven vehicle. No person, while hunting game
 16 animals or game birds, ~~shall may~~ drive through any retired
 17 cropland, brush area, slough area, timber area, open
 18 prairie, or unharvested or harvested cropland, except upon
 19 an established road or trail unless written permission has
 20 been given by the ~~land owner~~ landowner and is in possession
 21 of the hunter. The restrictions in this subsection on
 22 motor-driven vehicle use off an established road or trail
 23 apply only to hunting on state or private land, not to
 24 hunting on federal land unless the federal agency
 25 specifically requests or approves state enforcement.

1 ~~(9) Whenever said fish and game commission shall have~~
 2 ~~made any orders, rules or regulations for the carrying out~~
 3 ~~of the powers granted to it under this act, the same shall~~
 4 ~~take effect and be in force from and after the publication~~
 5 ~~and posting of notice of said orders, rules and regulations~~
 6 ~~as required by the fish and game laws.~~

7 ~~(10) (9)~~ The provisions of this section relating to
 8 methods of herding, driving, capturing, taking, locating, or
 9 concentrating of fish, game animals, game birds, or
 10 fur-bearing animals do not apply to the department ~~of fish~~
 11 ~~and game,~~ or to any employee thereof, while acting within
 12 the scope and course of the powers and duties of the
 13 department.

14 ~~Any person violating any of the provisions of this~~
 15 ~~section shall be deemed guilty of a misdemeanor and shall be~~
 16 ~~punishable as provided by law."~~

17 Section 10. Section 26-302, R.C.M. 1947, is amended to
 18 read as follows:

19 "26-302. Big game hunters to wear colored garments.
 20 (1) ~~It shall be is~~ unlawful for any person to hunt any of
 21 the big game animals in this state or to accompany any
 22 hunter as an outfitter or guide under any of the provisions
 23 of the laws of this state without ~~such the~~ person wearing as
 24 exterior garments above the waist a total of not less than
 25 ~~four hundred (400)~~ square inches of hunter orange material

1 visible at all times while hunting.

2 (2) "Hunter orange" means a daylight fluorescent
3 orange color.

4 (3) This section ~~shall~~ does not apply to any person
5 hunting with a bow and arrow during the special archery
6 season.

7 ~~(2) Failure of any person to comply with this section~~
8 ~~shall not be treated as evidence of contributory negligence~~
9 ~~in a civil action for injury to him or for his wrongful~~
10 ~~death.~~

11 (4) The commission shall make ~~regulations~~ rules to
12 implement this section."

13 Section 11. Section 26-330, R.C.M. 1947, is amended to
14 read as follows:

15 "26-330. Federal ~~government may conduct~~ fish-hatching
16 operations ~~in state~~. The government of the United States,
17 the United States commissioner of fisheries, and its or his
18 duly authorized agent or agents, ~~be and they are hereby~~
19 ~~authorized, empowered and granted the right to~~ may conduct
20 fish-hatching and all operations connected therewith, ~~(in~~
21 ~~any manner and at any time that may by them, or any of them,~~
22 ~~be considered necessary and proper, by them)~~ at any United
23 State States fish cultural station that may ~~hereafter~~ be
24 established by the United States government in the state of
25 Montana."

1 Section 12. Section 26-507, R.C.M. 1947, is amended to
2 read as follows:

3 "26-507. Certificate of sale. Upon the sale of ~~such~~
4 property as provided in 26-506, the officer shall issue a
5 certificate to the purchasing party ~~purchasing the same~~,
6 certifying that the purchaser has the legal right to be in
7 possession of the ~~same~~ property and that anyone so
8 acquiring ~~said this type of~~ property from the state is
9 prohibited from reselling ~~such property and from or~~ using
10 the same for any commercial purpose. During an auction only
11 one carcass of either deer, moose, or elk ~~shall~~ may be
12 purchased per person. At ~~their~~ its discretion, the ~~fish and~~
13 ~~game~~ department may donate unsold carcasses to welfare
14 departments, public institutions, or charitable
15 institutions."

16 Section 13. Section 26-801, R.C.M. 1947, is amended to
17 read as follows:

18 "26-801. ~~lawful for merchants, hotels or restaurants~~
19 ~~to possess and sell game not killed within state~~ Possession
20 of game by merchants or hotel or restaurant keepers. It
21 ~~shall be is~~ lawful for any merchant, hotel hotelkeeper, or
22 restaurant keeper to have in his possession, ~~and to offer~~
23 for sale, ~~and to or~~ sell game and game birds, provided,
24 ~~that said the game and or game birds are not and have not~~
25 ~~been killed within the state of in Montana.~~

1 Section 14. Section 26-802, R.C.M. 1947, is amended to
2 read as follows:

3 "26-802. Evidence of lawful possession of game ~~must be~~
4 ~~produced, when. It shall be the duty of every~~ Each merchant,
5 ~~hotel hotelkeeper, and or~~ restaurant keeper, having in his
6 possession and offering for sale any game or game birds, ~~to~~
7 shall produce upon demand, for the inspection of any game
8 warden, ~~or~~ deputy game warden, or sheriff, the receipt or
9 record and shipping and transportation receipts required
10 ~~hereby in 26-803~~ to be kept by him, ~~and a, a~~ failure or
11 refusal to produce the same upon demand, coupled with the
12 possession and offering for sale of game or game birds,
13 ~~shall constitute is~~ prima facie evidence of the violation of
14 ~~this act 26-801 through 26-805 and 26-808."~~

15 Section 15. Section 26-805, R.C.M. 1947, is amended to
16 read as follows:

17 "26-805. Definitions. ~~in the construction of this act~~
18 ~~the~~ The words "game" and "game birds" or "parts of the
19 same", ~~shall be construed to~~ mean the game animals and game
20 birds, the killing of which is restricted or forbidden by
21 the laws of Montana, ~~and the~~ The words "merchant", "hotel
22 ~~and hotelkeeper", or "restaurant keeper," shall include mean~~
23 each ~~and every~~ manager, servant, agent, ~~and or~~ employer of
24 such person."

25 Section 16. Section 26-904, R.C.M. 1947, is amended to

1 read as follows:

2 "26-904. Who ~~deemed~~ considered outfitter. (1) For the
3 ~~purpose purposes~~ of ~~this act 26-904, 26-906, 26-908, and~~
4 ~~26-911 through 26-921~~, the word "outfitter" ~~shall mean means~~
5 any person, ~~or~~ persons, company, or corporation who ~~shall~~
6 ~~engage;~~

7 (a) engages in the business of outfitting for hunting
8 or fishing parties, as the term is commonly understood, ~~who~~
9 ~~shall;~~

10 (b) for consideration provide provides any saddle or
11 pack animal ~~or animals~~ or personal service for hunting or
12 fishing parties, ~~or~~ camping equipment, vehicles, or other
13 conveyance, except boats, for any person ~~or persons~~ to hunt,
14 trap, capture, take, or kill any game, ~~or who shall;~~

15 (c) for consideration furnish furnishes a boat or
16 other floating craft and ~~accompany~~ accompanies any person ~~or~~
17 ~~persons~~ for the purpose of catching fish; ~~or who shall aid~~
18 ~~or assist~~

19 (d) aids or assists any person ~~or persons~~ in locating
20 or pursuing any game animal.

21 (2) The providing of the above mentioned
22 above-mentioned services, property, or equipment shall be
23 conclusively presumed to have been for consideration for
24 ~~purposes of this act the purposes of 26-904, 26-906, 26-908,~~
25 ~~and 26-911 through 26-921~~ if the same, or any thereof, are

provided by any person, company, or corporation for more than two ~~(2)~~ parties or two ~~(2)~~ other persons during any calendar year or on more than two ~~(2)~~ occasions during any such calendar year."

Section 17. Section 26-908, R.C.M. 1947, is amended to read as follows:

"26-908. ~~Outfitters and guides law definitions~~
Definitions. As used in ~~this act~~ 26-904, 26-906, 26-908, and 26-911 through 26-921, unless the context requires otherwise, the following definitions apply:

(1) "Outfitter" has the definition given it in ~~section 26-904~~;

(2) "Professional guide" means a person who is an employee of an outfitter and who furnishes only personal guiding services in assisting a person to hunt or take game animals or fish and who does not furnish any facilities, transportation, or equipment;

(3) "Resident guide" means a resident who guides resident or nonresident friends for the purpose of hunting game animals without compensation;

(4) "Advisory council" means the Montana outfitters' council provided for in ~~section 82A-2005~~;

(5) "Resident" means a person who qualifies for a resident Montana hunting or fishing license under ~~section 26-202.3~~;

(6) "Nonresident" means a person other than a resident;

(7) "License year" means that period commencing May 1 and ending April 30 of the next year."

Section 18. Section 26-912, R.C.M. 1947, is amended to read as follows:

"26-912. ~~Outfitters' council powers and duties~~. The council shall have the authority and duty to make recommendations to the commission and the director as to:

(1) ~~Outfitter~~ outfitter standards;

(2) ~~Rules~~ rules of procedures and ~~regulations~~ rules to effectuate ~~this act~~ 26-904, 26-906, 26-908, and 26-911 through 26-921, including but not limited to rules prescribing all requisite qualifications for license. These qualifications shall include training, experience, knowledge of rules ~~and regulations~~ of governmental bodies pertaining to outfitting, and condition and type of gear and equipment;

(3) ~~Hearings~~ hearings and proceedings to suspend or revoke licenses of outfitters and guides and to recommend suspension or revocation of licenses for due cause;

(4) ~~Any~~ any reasonable rules, ~~and regulations~~ not in conflict with ~~this act~~ 26-904, 26-906, 26-908, and 26-911 through 26-921, necessary for safeguarding the health, safety, and welfare of those persons utilizing the services of outfitters and for the protection of landowners and the

1 general public."

2 Section 19. Section 26-913, R.C.M. 1947, is amended to
3 read as follows:

4 "26-913. ~~Rules and regulations for outfitting and~~
5 ~~guiding authorization for rules.~~ (1) The ~~fish and game~~
6 ~~commission shall have the authority to~~ may adopt,
7 promulgate, and enforce rules and regulations recommended by
8 the advisory council as provided in ~~section 5~~ [26-912] and
9 all other rules and regulations it may ~~deem~~ consider proper
10 for the ~~proper~~ administration and enforcement of the
11 provisions of ~~this act 26-904, 26-906, 26-908, and 26-911~~
12 ~~through 26-921~~ and the regulation of outfitting and guiding
13 to provide for the services to the public."

14 Section 20. Section 26-914, R.C.M. 1947, is amended to
15 read as follows:

16 "26-914. Requirement of license as outfitter or guide
17 — services performed — standards. (1) No person ~~shall~~ may
18 act as an outfitter, professional guide, or resident guide,
19 or advertise as an outfitter, without first securing a
20 license in accordance with the provisions of ~~this act~~
21 ~~26-904, 26-906, 26-908, and 26-911 through 26-921.~~

22 (2) Whenever an outfitter is engaged by any person, or
23 a resident guide takes out nonresident friends, ~~said the~~
24 outfitter or resident guide shall keep and submit records as
25 required by the ~~fish and game~~ commission.

1 (3) Outfitters and their employees ~~shall~~ may not
2 shoot, kill, or take big game animals for or in competition
3 with those employing them while acting under employment as
4 an outfitter.

5 (4) Outfitters and resident guides utilizing lands
6 under the control of the United States government shall
7 obtain the proper permits required by the government office
8 responsible for the area in which the outfitter or resident
9 guide intends to operate, and shall comply ~~to~~ with
10 environmental protection standards established for these
11 lands.

12 (5) An outfitter ~~shall~~ may not willfully and
13 substantially misrepresent his facilities, prices,
14 equipment, services, or hunting.

15 (6) Outfitters and their employees shall take every
16 reasonable measure to provide their advertised services to
17 their clients."

18 Section 21. Section 26-915, R.C.M. 1947, is amended to
19 read as follows:

20 "26-915. ~~Application for license contents~~
21 ~~requirements and qualifications fees.~~ (1) Each applicant
22 for an outfitter's or professional guide's license shall
23 make application for license upon a form to be prescribed
24 and furnished by the ~~fish and game~~ commission which shall
25 include:

(a) ~~The~~ the applicant's full name, address, and telephone number;

(b) ~~The~~ the address of his principal place of business in the state of Montana;

(c) ~~The~~ the amount and kind of property and equipment owned and used in the outfitting business of the applicant, if an outfitter's license application is involved;

(d) ~~The~~ the experience of the applicant, including years of experience as an outfitter or guide, knowledge of areas in which he has operated and intends to operate, and ability to cope with weather conditions and terrain;

(e) ~~A~~ a signed statement of the licensed outfitter by whom the professional guide is to be employed, that the said guide is in fact, to be employed by such outfitter and stating that ~~said~~ the outfitter recommends the applicant for his qualifications;

(f) ~~A~~ a statement by a ~~Montana fish and game~~ warden to the ~~fish and game~~ director that the equipment listed on the application has been inspected by ~~said~~ the warden and that the same is in fact, owned or leased by the applicant, and is in good operating condition, and is sufficient and satisfactory for the services advertised or contemplated to be performed by such applicant;

(g) ~~A~~ a statement of the ~~maximum~~ number of guests to be taken at any one ~~time~~;

~~(b) Each new applicant who intends to outfit on a national forest must have the written approval of the rangers in whose district he will establish hunting camps, and such written approval shall accompany the application if the applicant intends to outfit on a national forest.~~

~~(2)~~ (2) Applications for outfitter's license shall be in the name of an individual person only. Applications involving corporations or partnerships shall be made by one individual person who qualifies under the provisions of ~~this act 26-904, 26-906, 26-908, and 26-911 through 26-921; and~~ any license issued pursuant thereto shall be in the name of that person; and the license shall specifically state that the same is issued for the use and benefit of the named corporation or partnership involved. Any revocation or suspension of such a license is binding upon the individual person and the partnership or corporation for the use and benefit of which the license was originally issued. Application shall be made to and filed with the director.

~~(2)~~ (3) Each applicant for, and holder of, an outfitter's license or any renewal thereof, shall, in the opinion of the director, meet the following qualifications:

(a) ~~He~~ be a person of at least ~~eighteen~~ ~~(18)~~ years of age, in possession of all natural faculties, of ordinary intelligence, and in such physical condition as to be able to perform his duties as an outfitter;

(b) ~~Be~~ be a citizen of the United States and a resident of Montana for a full ~~two~~ (2) years, unless the residency requirement is waived by the ~~fish and game commission~~;

(c) ~~To~~ own or hold under written lease or ~~to~~ represent a company, corporation, or partnership who owns or holds under written lease the equipment and facilities as ~~is~~ are necessary to provide the services advertised, contracted for, or agreed upon between the outfitter and his clients. All all equipment and facilities shall be subject to inspection at all reasonable times and places by the ~~fish and game commission~~ or its designated agent;

(d) ~~Be~~ be a person who has demonstrated a respect for, and compliance with, the laws of any state or of the United States and all ~~regulations~~ rules promulgated thereunder, as to matters of fish and game, conservation of natural resources, and preservation of the natural ecosystem without pollution thereof;

(e) ~~Have~~ have not been convicted, or forfeited bond, of ~~one hundred dollars (\$100)~~ or more on more than one ~~(1)~~ violation of the fish and game laws of any state or the United States within the past ~~five~~ (5) years;

(f) ~~Have~~ have not, at any time, practiced fraud, deception, or material misrepresentation in procuring any previous outfitter's or guide's license from the state of

Montana;

(g) ~~Have~~ have not, at any time, promulgated any false or misleading advertising relating to the business of outfitting;

(h) ~~Have~~ have not been finally adjudged by a court of law, guilty of any substantial breach of written or oral contract with any person utilizing the applicant's services as an outfitter or guide during the license year immediately preceding that for which the application is made;

(i) ~~Have~~ have not committed any negligent act or misconduct while acting as an outfitter or guide which negligence or misconduct caused a danger or unreasonable risk of danger to person or property of any client of such outfitter or guide during the license year immediately preceding that for which the application is made;

(j) ~~Have~~ have not, at any time, been convicted of a felony, unless civil rights have been restored pursuant to law. No person may apply for, or hold an outfitter's license during any period of time in which a deferred sentence has been imposed for a felony.

(k) ~~Have~~ have substantially complied with all ~~fish and game~~ department regulations and state and federal laws concerning outfitters and guides, if the applicant has previously held a license as ~~such an~~ outfitter or guide;

(l) ~~Pass~~ pass a standard examination administered by

the ~~fish and game~~ directory or an agent designated by him, which ~~said~~ examination shall require general and sufficient knowledge displaying and indicating ability to perform the services contemplated with efficiency and with safety to the health and welfare of persons employing such services. The ~~said~~ examination shall test the applicant's knowledge of subjects which shall apply to the type of license applied for in the following subjects:

- (i) ~~Fish~~ fish and game laws and regulations;
- (ii) ~~Practical~~ practical woodsmanship;
- (iii) ~~General~~ general knowledge of big game;
- (iv) ~~Field~~ field preparation of trophies;
- (v) ~~Care~~ care of game meat;
- (vi) Use use of outfitter's gear as shown on the application;
- (vii) ~~Knowledge~~ knowledge of area and terrain;
- (viii) ~~Knowledge~~ knowledge of firearms;
- (ix) ~~Federal~~ federal and state regulations as applicable to outfitting;
- (x) ~~Practical~~ practical first aid.

~~(3)(4)~~ (4) Each An applicant for a professional guide's license shall meet the following requirements:

- (a) ~~Be~~ be a person of at least ~~eighteen~~ (18) years of age, in possession of all natural faculties, of ordinary intelligence, and in such physical condition as to be able

to perform his duties as a professional guide;

- (b) ~~Be~~ be a citizen of the United States and a resident of Montana as defined in ~~this act~~ 26-908;

- (c) ~~Be~~ be endorsed and recommended by an outfitter with a valid license.

~~(4)(5)~~ (5) A resident guide shall have been issued a valid resident wildlife conservation license.

~~(5)(6)~~ (6) Residence requirements for procuring an outfitter's license are hereby waived as to persons who are citizens of a common boundary state and of a common county thereof to the same extent the home state of the applicant waives such requirements for the residents of Montana, except for fee.

(7) For the purpose of obtaining a guide's license only, nonresident professional guides employed by resident outfitters shall be considered resident professional guides.

~~(6)(8)~~ (8) Applications shall be ~~made to and filed with~~ the ~~fish and game director~~ and accompanied by a license fee as herein stipulated, which will be refunded if and when the application is denied. ~~The fee is to be used in investigation of the applicant, in enforcement of this act, and for administrative costs.~~

(a) Resident ~~resident~~ outfitter's license fee.....\$50.00;

(b) Resident ~~resident~~ professional guide's fee.....\$15.00;

~~Resident guide's license is a valid Montana wildlife~~

~~conservation license.~~

~~(c) Nonresident nonresident~~ outfitter's license fee. \$150.00;

~~(d) Nonresident nonresident~~ professional guide's fee \$100.00;

(9) A resident guide's license is a valid Montana wildlife conservation license.

(10) The license fee shall be used to investigate the applicant, to enforce 26-904, 26-906, 26-908, and 26-911 through 26-921, and for administrative costs.

(11) Provided, however, that if If the nonresident resides in a state requiring residents of the state of Montana to pay in excess of said such amounts for a similar license, the fee for such nonresident outfitters or guides shall be the same amount as ~~such~~ the higher fee charged in the state where ~~such~~ the nonresident resides.

~~(7) (12)~~ The ~~fish and game~~ director in his discretion may cause to be made such additional investigation and inquiry, relative to the applicant for outfitter's license and an applicant's qualifications as he ~~shall deem~~ considers advisable. The director may deny or refuse to issue any new license or to renew any previous license if, in his opinion, the applicant does not meet the qualifications herein stated. In the event that any application for license is denied or refused, the director shall immediately notify the applicant, setting forth in the notice the grounds upon which the denial or refusal is based. Final decision as to

issuance of renewal ~~applications~~ licenses shall be made not later than ~~thirty (30)~~ days from the date of receipt of the completed application for renewal ~~of license~~, and ~~upon a new application~~, not later than ~~ninety (90)~~ days from the date of receipt of ~~the a~~ completed application for a new license. A licensee in good standing ~~shall be~~ is entitled to a new license for the ensuing license year upon complying with the provisions of this section, but is exempt from having to retake the written examination.

~~(8) (13)~~ Only one ~~(4)~~ application for an outfitter or guide's license may be made any one ~~(4)~~ license year. If any application is denied, subsequent applications by the same applicant for the license year involved are ~~null and void~~, except as provided in 26-916 (1) (b)."

Section 22. Section 26-916, R.C.M. 1947, is amended to read as follows:

"26-916. Kinds of ~~license-issued~~ licenses. (1) After receipt of the application and when all the conditions and requirements of ~~this act~~ 26-904, 26-906, 26-908, and 26-911 through 26-921 have been satisfied, the ~~fish and game~~ director shall issue either of the following licenses, depending upon his determination of the applicant's ability and the service that the applicant can perform with the equipment listed on his application:

(a) A a general license authorizing him to perform all

1 the functions of an outfitter as that term is defined in
2 ~~section 26-904, R.C.M., 1947, or~~

3 (b) ~~a~~ a special license authorizing him to perform
4 only the function of outfitting listed on the license. The
5 license shall be in the form prescribed, and shall be valid
6 for the licensing year in which issued. If the application
7 is denied, the ~~fish and game~~ director shall notify the
8 applicant, in writing, of the reasons for the denial, and if
9 the reasons are corrected, a license shall be issued upon
10 reapplication thereof.

11 (2) For the ~~purpose~~ purposes of ~~this act 26-904,~~
12 26-906, 26-908, and 26-911 through 26-921, a person may
13 serve as a professional guide under his employer's license
14 after submitting his application with the proper license
15 fee, until ~~the~~ license is issued or for ~~ten~~ (10) days after
16 notification of ~~the~~ rejection of ~~the~~ license.

17 (3) To be valid, a professional ~~guide~~ guide's license
18 must bear the signature and outfitter's license number of an
19 endorsing outfitter and is valid only while the holder of
20 such license is employed by an endorsing outfitter.

21 (4) No ~~outfitter~~ outfitter's license may be
22 transferred during any license year, ~~provided that an~~ in
23 individual person may, upon proper showing, have his
24 outfitter's license amended to indicate that he is holding
25 such ~~the~~ license for the use and benefit of a named

1 partnership or corporation.

2 (5) No person may hold more than one ~~+~~ outfitter's
3 license either for his own benefit or for the use and
4 benefit of a partnership or corporation, nor may the name of
5 any partnership or corporation appear on more than one ~~+~~
6 current outfitter's license.

7 (6) Notwithstanding any other provision or law, a
8 license shall expire on the last day of the license year for
9 which it was issued."

10 Section 23. Section 26-917, R.C.M. 1947, is amended to
11 read as follows:

12 "26-917. Deposit of fees. All fees collected under the
13 ~~provisions of this act 26-904, 26-906, 26-908, and 26-911~~
14 through 26-921 shall be deposited as provided in section
15 26-121, ~~R.C.M., 1947.~~"

16 Section 24. Section 26-921, R.C.M. 1947, is amended to
17 read as follows:

18 "26-921. Enforcement. The warden or ex officio warden,
19 designated by the department to primarily administer
20 outfitting and guiding laws and ~~regulations~~ rules, and other
21 wardens, and all peace officers shall enforce ~~this act~~
22 26-904, 26-906, 26-908, and 26-911 through 26-921."

23 Section 25. Section 26-1006, R.C.M. 1947, is amended
24 to read as follows:

25 "26-1006. ~~Act not applicable to~~ Exception in cases of

1 extreme hunger. When it is shown that any violation of the
2 provisions of this ~~act~~ title was for the purpose of
3 preventing great suffering by hunger of any person ~~or~~
4 ~~persons~~, which could not otherwise have been avoided, the
5 provisions of this ~~act~~ title shall not apply to ~~said the~~
6 case."

7 Section 26. Section 26-1102, R.C.M. 1947, is amended
8 to read as follows:

9 "26-1102. Sun ~~river~~ River game preserve. ~~There is a~~
10 ~~Sun River game preserve described as follows: Beginning~~
11 ~~beginning~~ at a point on the continental divide of the Rocky
12 ~~mountains~~ Mountains, due south of the head or source of the
13 south fork of the north fork of Sun ~~river~~ River, in what
14 will be, when surveyed, section eight, township eighteen
15 north of range ten west, Montana meridian, ~~when surveyed~~;
16 thence due north from the crest of the continental divide to
17 the head of the south fork of the north fork of Sun ~~river~~
18 River; thence northerly along and down the course of the
19 south fork of the north fork of Sun ~~river~~, River as it winds
20 and turns to its confluence with the north fork of the north
21 fork of Sun ~~river~~ River; thence northerly along the course
22 of the north fork of the north fork of Sun ~~river~~, River as
23 it winds and turns to its head or source; thence due north
24 to the crest of the continental divide of the Rocky
25 ~~mountains~~ Mountains; thence along the crest of the

1 continental divide of the Rocky ~~mountains~~ Mountains
2 southwesterly and southerly to the place of beginning,
3 intending hereby to include in said game preserve all that
4 territory lying between the ~~said~~ south fork of the north
5 fork and the ~~said~~ north fork of the north fork of Sun ~~river~~
6 River on the east, and the continental divide of the Rocky
7 ~~mountains~~ Mountains on the west."

8 Section 27. Section 26-202, R.C.M. 1947, is amended to
9 read as follows:

10 "26-202. License required. It ~~shall be~~ is unlawful and
11 ~~a misdemeanor punishable as provided by section 26-324~~ for
12 any person to:

13 (1) pursue, hunt, trap, take, shoot, or kill or
14 attempt to trap, take, shoot, or kill, any game animal, ~~or~~
15 any game bird, or any fur-bearing animal, ~~or to~~ take, kill,
16 trap, or fish, for any fish within this state, ~~or to~~ have,
17 keep, or possess, within this state, any game animal, game
18 bird, fur-bearing animal, ~~or~~ game fish, or parts thereof,
19 except as herein provided or ~~shall be~~ as provided by the
20 ~~state fish and game commission; or for any person~~

21 (2) ~~to~~ pursue, hunt, trap, take, shoot, or kill, or
22 attempt to trap, take, shoot, or kill, any game animal, game
23 bird, or fur-bearing animal, ~~or~~ take, kill, trap, or fish
24 for, any fish, except at the places and during the periods
25 and in the manner herein defined or ~~shall be~~ as defined by

1 the ~~state fish and game commission,~~ or ~~for any person to~~
 2 (3) pursue, hunt, trap, take, shoot, or kill, or
 3 attempt to trap, take, shoot, or kill, any game animal, game
 4 bird, or fur-bearing animal, or take, kill, trap, or fish
 5 for, any fish within this state, or have, keep, possess,
 6 sell, purchase, ship, or reship, any imported or other
 7 fur-bearing animal, or parts thereof, without first having
 8 obtained a proper license or permit from the commission ~~so~~
 9 to do so."

10 Section 28. Section 26-202.2, R.C.M. 1947, is amended
 11 to read as follows:

12 "26-202.2. Special Restrictions on special
 13 licenses tagging of carcasses of game animals. (1) Special
 14 licenses authorized to be issued under the general powers of
 15 the department ~~of fish and game~~ may be issued only to
 16 persons holding valid big game licenses for the current
 17 year, which have been obtained by the applicant prior to the
 18 time of filing of application for a special license.

19 (2) ~~Any~~ A person who has obtained a grizzly bear,
 20 moose, mountain goat, or mountain sheep license ~~shall is~~ not
 21 be eligible to apply for another such license for the next
 22 succeeding ~~seven (7) years,~~ if such person has killed or
 23 taken an animal of the species for which ~~such~~ the special
 24 license was issued. ~~Any~~ A person who has obtained a grizzly
 25 bear, moose, mountain goat, or mountain sheep license but

1 did not kill or take an animal of the species for which ~~such~~
 2 the special license was issued, ~~shall be~~ is eligible to
 3 apply for another such license in any succeeding year if he
 4 returns his unused special license to the department ~~of fish~~
 5 ~~and game~~ before or at the time application is made. ~~It is~~
 6 ~~further provided that any~~ A person who has received a
 7 special license for elk ~~shall is~~ not be eligible to receive
 8 a second special license for this species of game animal
 9 during any license year. However, in the event the number of
 10 applications received is not equal to the number of game
 11 species desired to be killed by the department,
 12 reapplication may be made by those valid license holders of
 13 the current year who may fall within these limitations. ~~It~~
 14 ~~is further provided that any~~ A person who has killed or
 15 taken a game animal, except a deer, during the current
 16 license year, ~~shall is~~ not be permitted to receive a special
 17 license under this ~~act~~ chapter to hunt or kill a second game
 18 animal of the same species.

19 (3) ~~Tagging of carcasses of game animals.~~ Every
 20 license issued by the department authorizing the holder
 21 thereof to pursue, shoot, kill, capture, take, or possess
 22 game animals, whether issued to a resident or a nonresident,
 23 shall provide such tags, coupons, or markers, as the
 24 department ~~shall prescribe~~ prescribes, and when any person
 25 ~~should take~~ takes or ~~kill~~ kills any game animal under ~~such~~

1 ~~the~~ license, ~~such~~ the person shall immediately thereafter
 2 cut out, from the tag, coupon, or other marker, the date the
 3 animal was killed or taken and attach the tag, coupon, or
 4 other marker to ~~said~~ the animal, completely filled out with
 5 the name of the license holder, his address, and any other
 6 information requested on ~~such~~ the tag, coupon, or other
 7 marker, ~~and such~~ Such tag, coupon, or other marker shall be
 8 kept attached to ~~said~~ the carcass so long as any
 9 considerable portion of the carcass remains unconsumed, and
 10 when the proper tag, coupon, or other marker is attached to
 11 ~~said~~ the game animal so killed, the same may be possessed,
 12 used, stored, and transported. ~~It is unlawful for a~~
 13 ~~person, who should kill kills~~ any game animal by authority
 14 of any license issued for the killing of ~~such~~ the game
 15 animal, ~~and shall to~~ fail or neglect to cut out the day and
 16 month of the kill or provide such other information as is
 17 required and attach his tag, coupon, or other marker so
 18 provided with the license issued, to the carcass of ~~said~~ the
 19 game animal or portion thereof, ~~or any~~ It is unlawful for a
 20 ~~person who shall to~~ fail to keep the tag, coupon, or
 21 other marker attached to ~~said~~ the game animal or portion
 22 thereof while the same is possessed by him ~~shall be guilty~~
 23 ~~of a misdemeanor and upon conviction thereof shall be~~
 24 ~~punished as provided for by law in section 26-324."~~

25 Section 29. Section 26-213, R.C.M. 1947, is amended to

1 read as follows:

2 "26-213. Carrying and exhibiting license. It is
 3 unlawful ~~and a misdemeanor punishable as provided by section~~
 4 ~~26-324~~ for any person to whom a license or permit has been
 5 issued to fish for or take any fish, or pursue, hunt, shoot,
 6 kill, or take any game bird or game animal or attempt to
 7 trap, ~~or~~ trap, or take any fur-bearing animal in this state
 8 unless ~~at the time~~ he has the license, ~~or~~ licenses, or
 9 permit, in his possession at the time. It is unlawful to
 10 refuse to exhibit a license or permit for inspection to a
 11 warden or other officer requesting to see it."

12 Section 30. Section 26-228, R.C.M. 1947, is amended to
 13 read as follows:

14 "26-228. Rules ~~and regulations~~ to implement reciprocal
 15 agreements — violations. The ~~state fish and game~~ commission
 16 is ~~hereby~~ authorized to establish rules and ~~regulations~~ for
 17 the purpose of implementing said agreements established
 18 under 26-225. ~~Any person violating~~ It is unlawful to
 19 violate any orders or ~~regulations~~ rules promulgated by the
 20 ~~state fish and game~~ commission under this act ~~shall, upon~~
 21 ~~conviction, be deemed guilty of a misdemeanor and shall be~~
 22 ~~punished as provided in section 26-324~~ 26-225 through
 23 26-228."

24 Section 31. Section 26-232, R.C.M. 1947, is amended to
 25 read as follows:

1 ~~"26-232. Misdemeanor penalty False statements in~~
 2 ~~license application. Any person who shall~~ It is unlawful to
 3 subscribe to any false statement in an application for a
 4 wildlife conservation license ~~or violate any other provision~~
 5 ~~of this act shall be guilty of a misdemeanor, and, on~~
 6 ~~conviction thereof, shall be punished as provided in section~~
 7 ~~26-324."~~

8 Section 32. Section 26-306, R.C.M. 1947, is amended to
 9 read as follows:

10 ~~"26-306. Private Fish pond license for~~ artificial lake
 11 ~~or pond—stocking license bond reports restrictions on~~
 12 ~~catching fish penalty for violation.~~ (1) A person who owns
 13 or lawfully controls an artificial lake or pond may apply to
 14 the director for a fish pond license. The holder of a
 15 private fish pond license may stock his fish pond with fry
 16 procured from any lawful source. The commission may
 17 designate the species of fish which may be released in the
 18 pond when there is a possibility of fish escaping from the
 19 pond into adjacent streams or lakes. The license holder may
 20 take fish from the lake or pond in any manner. Before a
 21 license holder may sell fish or eggs or fry from the lake or
 22 pond, he shall furnish a corporate surety bond to the state
 23 for ~~five hundred dollars (\$500)~~, conditioned to the effect
 24 that he will not sell fish or spawn from any of the public
 25 waters of this state, and also conditioned to the effect

1 that he will report to the director the quantity of fish,
 2 fish eggs, and spawn taken from the lake or pond. This
 3 report shall be made under oath annually during the month of
 4 January. A record of all transactions must be kept showing
 5 the species and numbers or pounds of fish sold, number and
 6 species of eggs sold, number and species of fry sold, name
 7 of person or persons to whom sold, and the date of
 8 transaction.

9 (2) "Artificial lake or pond" as used in this section
 10 does not include a natural pond or body of water created by
 11 natural means, ~~nor~~ or any portion of the ~~stream bed~~
 12 ~~streambed~~ or lake bed ~~lakebed~~ thereof. It includes only
 13 bodies of water created by artificial means or diversion of
 14 water which do not exceed ~~five hundred (500)~~ acres of
 15 surface area.

16 ~~(3) A person violating this section is guilty of a~~
 17 ~~misdemeanor and shall be punished as provided in section~~
 18 ~~26-324."~~

19 Section 33. Section 26-317, R.C.M. 1947, is amended to
 20 read as follows:

21 ~~"26-317. Destroying Unlawful to destroy~~ evidence of
 22 ~~sex constitutes misdemeanor. Any~~ It is unlawful for any
 23 person killing ~~any~~ a big game animal within this state ~~who~~
 24 ~~shall to~~ destroy ~~such~~ evidence of the sex of ~~any~~ the big
 25 game animal so killed, so as to make the determination of

1 the sex thereof uncertain, ~~shall be guilty of a misdemeanor~~
 2 ~~and upon conviction thereof, shall be punished as provided~~
 3 ~~in section 26-324.~~"

4 Section 34. Section 26-324, R.C.M. 1947, is amended to
 5 read as follows:

6 "26-324. Penalty. (1) A person violating any provision
 7 of Title 26, any other state law pertaining to fish and game
 8 thereto, or the orders, or rules, ~~and regulations~~ of the
 9 commission is, unless a different punishment is expressly
 10 provided by law for the violation, guilty of a misdemeanor
 11 and shall be fined not less than ~~twenty-five dollars~~ (\$25)
 12 ~~or~~ or more than ~~five hundred dollars~~ (\$500), or imprisoned
 13 in the county jail for not more than ~~six~~ (6) months, or both
 14 ~~fined and imprisoned~~. In addition, the person shall, in the
 15 discretion of the court, forfeit his license and privilege
 16 to hunt, fish, or trap within this state for a period of
 17 ~~sixteen~~ (16) months from the date of conviction.

18 (2) Notwithstanding the provisions of subsection (1),
 19 the penalties provided by this section shall be in addition
 20 to any penalties provided in 26-904, 26-906, 26-908, and
 21 26-911 through 26-921."

22 Section 35. Section 26-331, R.C.M. 1947, is amended to
 23 read as follows:

24 "26-331. Sale of fish or spawn ~~prohibited~~ unlawful —
 25 exceptions. ~~Every~~ No person ~~who~~ may, for speculative

1 purposes, for market, or for sale, in any way, catches catch
 2 any of the fish which in this ~~act~~ title are classified as
 3 "game fish" or ~~who shall~~ remove or cause to be removed the
 4 eggs or spawn of any such fish, ~~for speculative purposes,~~
 5 ~~for market or for sale, or who shall~~ No person may sell or
 6 offer for sale any of the game fish of this state as defined
 7 in this ~~act~~ defined, title or the eggs or spawn therefrom,
 8 ~~shall be deemed guilty of a misdemeanor and shall be~~
 9 ~~punishable as provided by section 26-324, provided, however,~~
 10 ~~that this~~ This section shall does not apply to fish caught
 11 in private ponds by the owners thereof ~~or~~ or to the taking
 12 of fish by the state authorities for the purpose of
 13 obtaining eggs for propagation in state fish hatcheries, or
 14 by any person who receives a permit from the ~~state fish and~~
 15 ~~game commission~~ to take eggs for ~~said~~ such purposes."

16 Section 36. Section 26-332, R.C.M. 1947, is amended to
 17 read as follows:

18 "26-332. ~~Method of catching fish use of traps, seines~~
 19 ~~and nets restrictions concerning possession and sale of~~
 20 ~~fish~~ Restrictions on fishing methods. (1) ~~Every~~ It is
 21 unlawful for a person who takes or catches to take or catch
 22 fish in any of the waters of this state, except with hook
 23 and line held in hand or line and hook attached to rod or
 24 pole held in hand; ~~or who takes or catches to take or catch~~
 25 fish with hook baited with any poisonous substance or by

1 means of the use of any poisonous substance, including fish
 2 berries, ~~or who takes or catches to take or catch~~ fish by
 3 means of the use of fishtraps, ~~grab-hooks~~ grabhooks, seines,
 4 nets, or other similar means for catching fish, ~~shall be~~
 5 ~~guilty of a misdemeanor and upon conviction thereof, shall~~
 6 ~~be punished as provided for in section 26-324, and the~~
 7 ~~amendments thereto; provided, however, that the The Montana~~
 8 ~~fish and game commission shall have the power, authority,~~
 9 ~~and jurisdiction, to~~ may designate such waters within the
 10 state of Montana, wherein, in the judgment of the members of
 11 ~~said the~~ commission, spears or gigs may be used for taking
 12 walleyed pike, sauger, northern pike, and nongame fish, and
 13 traps, seines, ~~or~~ nets, and rubber or ~~spring-propelled~~
 14 ~~spring-propelled~~ spears, when employed by sportsmen swimming
 15 or submerged in the water, may be used for the taking of
 16 designated species of fish, ~~and to close such The~~ waters so
 17 designated may be closed at the discretion of the
 18 commission, ~~and to permit the taking of black bass in~~
 19 ~~Flathead Lake, the The~~ taking of all fish by ~~said such~~ means
 20 in ~~said the~~ waters, when so designated, is to be done under
 21 such rules ~~and regulations~~ as ~~said the~~ commission may
 22 prescribe with reference thereto, and under the supervision
 23 of ~~said the~~ commission, ~~and all all~~ such nongame fish so
 24 taken may be possessed and sold in such manner and under
 25 such restrictions as ~~said the~~ commission may direct, ~~all~~

1 All fish, other than those herein designated, so taken under
 2 ~~said commission~~ rules ~~and regulations~~, when prescribed by
 3 ~~said the~~ commission, shall be returned uninjured to the
 4 waters from which they were taken.

5 (2) The taking of black bass in Flathead Lake may be
 6 permitted by the commission."

7 Section 37. Section 26-344, R.C.M. 1947, is amended to
 8 read as follows:

9 "26-344. Restrictions on use of fish as bait —
 10 ~~commission must authorize introduction of fish or game~~
 11 unlawful introduction of fish or game. (1) The state fish
 12 ~~and game commission shall have authority to may~~ prohibit the
 13 use of small fish as bait for catching fish in such waters
 14 as the commission ~~shall designate~~ designates. It ~~shall have~~
 15 ~~the power to may~~ promulgate such other ~~regulations~~ rules as
 16 are necessary to insure an adequate supply of fish in ~~said~~
 17 ~~such~~ waters, ~~including the power to and may~~ regulate fishing
 18 from boats or other floating devices and ~~to regulate~~ the use
 19 of fishing lures ~~and/or~~ baits in all waters of the state.

20 (2) It shall be is unlawful for any person ~~or persons~~
 21 to transplant or introduce any fish or fish eggs into any
 22 body of water in the state, and it ~~shall be is~~ unlawful for
 23 any person ~~or persons~~ to transplant or introduce any species
 24 of game birds, game ~~and or~~ fur-bearing animals, ~~and or~~
 25 nongame wildlife into the state of Montana without first

1 having obtained authorization from the ~~fish and game~~
2 commission.

3 ~~Any person found guilty of a violation of the~~
4 ~~provisions of this act shall be guilty of a misdemeanor and~~
5 ~~upon conviction thereof shall be punished as provided for in~~
6 ~~section 26-224."~~

7 Section 38. Section 26-501, R.C.M. 1947, is amended to
8 read as follows:

9 "26-501. Protection of wild birds ~~other than game~~
10 ~~birds and their nests and eggs. *~~ It is unlawful for a
11 ~~person who hunts, captures, kills, possesses, purchases,~~
12 ~~offers or exposes for sale, ships, or transports to hunt,~~
13 capture, kill, possess, purchase, offer or expose for sale,
14 ship, or transport any wild bird, other than a game bird, or
15 any part of the plumage, skin, or body of the bird,
16 irrespective of whether the bird was captured or killed
17 within the state, or to take or destroy the nest or eggs of
18 a wild bird, except under a certificate, falconer's license,
19 or permit issued by the ~~state fish and game~~ director is
20 ~~guilty of a misdemeanor and shall be punished as provided by~~
21 ~~section 26-224.~~ This section does not apply to the hunting,
22 trapping, or killing of house sparrows, crows, starlings,
23 rock doves, blackbirds, and magpies, and other birds the
24 ~~fish and game~~ commission designates, or to the taking or
25 destruction of their nests and eggs."

1 Section 39. Section 26-501.1, R.C.M. 1947, is amended
2 to read as follows:

3 "26-501.1. Protection and conservation of raptors —
4 falconry. (1) "Raptors", when used in this section or
5 26-501, means all birds of the orders falconiformes and
6 strigiformes, commonly called falcons, hawks, eagles,
7 ospreys, and owls.

8 (2) A person may not at any time hunt, capture, kill,
9 possess, purchase, offer or expose for sale, or transport a
10 raptor except as provided in this section or 26-501.

11 (3) The commission may adopt specific rules for the
12 keeping of records, and for the trapping, taking,
13 possession, or training of raptors used in the practice of
14 falconry, and may authorize the issuance of licenses to
15 persons for the practice of falconry. It is unlawful for any
16 person to possess a raptor or to train a raptor in the
17 practice of falconry without a license.

18 (4) The peregrine falcon (*Falco peregrinus*), bald
19 eagle (*Haliaeetus leucocephalus*), golden eagle (*Aquila*
20 *chrysaetos*), and osprey (*Pandion haliaetus*) may not be
21 captured in this state for the sport of falconry.

22 (5) The fee for a falconry license is ~~three dollars~~
23 ~~{3}~~ a year or any part of a year. A license expires April
24 30 each year.

25 (6) A license may not be issued to a person under the

1 age of ~~twelve~~ (12) years.

2 (7) Species of raptors which are native to North
3 America may be brought into Montana for the purpose of
4 falconry unless that action is specifically prohibited by
5 this section or 26-501, the laws of other states, or the
6 ~~regulations~~ rules of the federal government. Those raptors
7 may be possessed, subject to this section or 26-501. A
8 person bringing a raptor into this state must be able to
9 show proof of the area of origin.

10 (8) A licensee may not at any time possess more than
11 three (3) raptors, including those that have been imported.

12 (9) Licensees may take raptors as young or fledglings
13 from nests (unless specifically prohibited by commission
14 rules), or by traps or nets which are humane in their
15 operation and use. Not more than one (1) young may be taken
16 from one (1) nest by a permittee or permittees, and at least
17 one (1) young must be left in the nest. The commission may
18 close an area of the state to the taking of raptors at any
19 time or designate other raptors which may not be taken. This
20 subsection does not permit the removal of raptors in any
21 national or state refuge or park or in any area in which
22 local laws may prohibit that activity. Trapping raptors is
23 permitted only between September 1 and February 1.

24 (10) Raptors may not be used to intentionally flush or
25 harass big game.

1 (11) Raptors may not be loosed intentionally at
2 protected mammals and birds. Game bird limits and all
3 seasons and other ~~regulations~~ rules relating to game birds
4 must be obeyed.

5 (12) A licensee may not transfer ownership or
6 possession of a raptor taken or possessed under the
7 provisions of this section without notifying the department
8 of ~~fish and game~~ within ~~ten~~ (10) days after the date of
9 transfer.

10 (13) Licensees shall have in possession a valid
11 falconer's license when engaged in the practice of falconry.
12 In addition, falconers loosing raptors at game birds shall
13 have in possession a valid resident or nonresident game bird
14 license.

15 (14) Falconry licenses or permits are not transferable
16 and may be revoked for due cause at any time by the
17 department.

18 (15) A person may not sell or offer for sale Montana
19 raptors in this state. A person may not transport raptors
20 out of the state except by permit issued by the department.

21 (16) Nonresidents who are working, attending schools,
22 or otherwise living temporarily in the state of Montana may
23 obtain a Montana falconry license and bring raptors, legally
24 acquired in other states or countries, into the state of
25 Montana; such nonresidents shall be allowed to hunt with

1 falcons in the state of Montana subject to all Montana laws
2 and ~~regulations~~ rules.

3 ~~(16) A person who violates this section or section~~
4 ~~26-501 is guilty of a misdemeanor and shall be prosecuted~~
5 ~~under section 26-324.~~

6 (17) Predatory hawks and owls destroying livestock or
7 poultry may be killed at any time by the livestock or
8 poultry owners. Eagles may be killed in compliance with
9 federal law and regulation."

10 Section 40. Section 26-503, R.C.M. 1947, is amended to
11 read as follows:

12 "26-503. Possession of unlawfully killed animals and
13 of unlawful fishing implements ~~— prima facie evidence —~~
14 ~~penalty.~~ (1) The possession of dead bodies, or any part
15 thereof, of any of the game fish, game or nongame birds, or
16 game or fur-bearing animals defined by the fish and game
17 laws of the state of Montana ~~shall be~~ is prima facie
18 evidence that ~~each the~~ person or persons in whose possession
19 the same are found have killed, caught, or taken the same,
20 and the possession of a fishing rod and line, spear, gig, or
21 barbed fork, on the banks or shores of a stream or lake
22 ~~shall be~~ is prima facie evidence that the person or persons
23 in whose possession the same are found ~~was~~ were using the
24 same to fish.

25 ~~(2) Any person who shall~~ It is unlawful to possess,

1 have, ~~or~~ hold, ~~or~~ purchase, ~~or~~ keep in storage, or possess
2 for any other purpose, any game fish, game bird, nongame
3 bird, game animal, fur-bearing animal, or parts thereof,
4 which ~~shall have been~~ were unlawfully killed, captured, or
5 taken, ~~or who shall unlawfully~~ No person may unlawfully use
6 any fishing rod and line, ~~or~~ fishing lines, spear, gig, or
7 barbed fork, ~~shall be guilty of a misdemeanor and punished~~
8 ~~as provided by section 26-324."~~

9 Section 41. Section 26-512, R.C.M. 1947, is amended to
10 read as follows:

11 "26-512. ~~Penalty for violation~~ Failure to tag turkey.
12 ~~Any~~ It is unlawful for any person who shall kill, capture or
13 ~~possess~~ kills, captures, or possesses any wild turkey by
14 authority of any turkey tag or permit ~~and shall to~~ fail or
15 neglect to attach his tag to the turkey, or ~~shall~~ fail to
16 validate his tag by filling out or punch marking the tag as
17 required and ~~fail~~ to keep the tag attached while the same is
18 possessed by him, ~~shall be guilty of a misdemeanor and upon~~
19 ~~conviction shall be punished as provided for in section~~
20 ~~26-324."~~

21 Section 42. Section 26-701, R.C.M. 1947, is amended to
22 read as follows:

23 "26-701. Removal of animals or parts of animals from
24 the state unlawfully, ~~when illegally taken.~~ It is hereby
25 ~~declared to be~~ unlawful ~~and a misdemeanor, punishable as~~

1 ~~provided by section 26-324,~~ for any person or persons, to
 2 possess, or to ship or take out of the state any illegally
 3 taken game ~~and~~ or nongame birds, fish, game animals,
 4 fur-bearing animals, ~~or~~ the skins of fur-bearing animals, or
 5 any parts thereof, whether taken within or coming from
 6 without the state."

7 Section 43. Section 26-704, R.C.M. 1947, is amended to
 8 read as follows:

9 "26-704. Labeling of packages ~~for shipment from state.~~

10 All shippers of fish, game or nongame birds, game animals,
 11 fur-bearing animals, ~~or~~ the skins of fur-bearing animals or
 12 predatory animals, or parts thereof are ~~hereby~~ required to
 13 label all packages offered for shipment by parcel post,
 14 common carrier, or otherwise, ~~such~~ The label ~~to~~ shall be
 15 securely attached to the address of the package and shall
 16 plainly indicate the names and addresses of the consignor
 17 and consignee and the complete contents of ~~said~~ the package.

18 ~~All persons violating any of the provisions of this act~~
 19 ~~shall be deemed guilty of a misdemeanor, and upon~~
 20 ~~conviction, shall be punished in the manner provided by~~
 21 ~~section 26-324."~~

22 Section 44. Section 26-705, R.C.M. 1947, is amended to
 23 read as follows:

24 "26-705. ~~Violations of provisions relating to~~
 25 ~~shipment penalty confiscation~~ Violation by carriers. No

1 person ~~or persons,~~ or the agent or employee of any common
 2 carrier, association, stage, express, railway, or
 3 transportation company, ~~shall~~ may transport or receive for
 4 transportation or carriage or sell or offer for sale any of
 5 the game animals, game or nongame birds, fish, fur-bearing
 6 animals, ~~or~~ the skins of fur-bearing animals, or parts
 7 thereof, except as specifically provided for by ~~this act,~~
 8 26-704, ~~and all~~ All game or nongame birds, fish, game
 9 animals, ~~or~~ fur-bearing animals, or parts thereof, had in
 10 possession, or which have been shipped or are being
 11 transported in violation of any of the provisions of this
 12 act, shall be seized, confiscated, and disposed of as
 13 provided by law. ~~Any person violating any of the provisions~~
 14 ~~of this act shall be guilty of a misdemeanor and punished in~~
 15 ~~the manner provided by section 26-324."~~

16 Section 45. Section 26-708, R.C.M. 1947, is amended to
 17 read as follows:

18 "26-708. Commercial exportation of aquatic insects
 19 prohibited. It is ~~hereby declared to be~~ unlawful ~~and a~~
 20 ~~misdemeanor, punished as provided by section 26-324,~~ for any
 21 person ~~or persons,~~ to ship or take out of the state any
 22 aquatic insects for speculative purposes, for market, or for
 23 sale. This section ~~shall~~ does not apply to aquatic insects
 24 caught in private ponds by the owners thereof."

25 Section 46. Section 26-804, R.C.M. 1947, is amended to

1 read as follows:

2 "26-804. Noncompliance with law ~~a misdemeanor. Any~~ It
3 is unlawful for any person who shall to have in his
4 possession, and offer for sale, or sell any game or game
5 birds without having complied with the provisions of this
6 ~~act 26-803~~ relating to the keeping of a record and shipping
7 and transportation receipts, ~~shall be guilty of a~~
8 ~~misdemeanor and punished in the manner provided by section~~
9 ~~26-324."~~

10 Section 47. Section 26-811, R.C.M. 1947, is amended to
11 read as follows:

12 "26-811. Contests based on size of game animals
13 unlawful. Except as provided in this section, it is unlawful
14 for any person, as defined in ~~section~~ 26-201, to conduct or
15 sponsor in any manner a contest in which a prize is offered
16 to a person who kills a game animal possessing the largest
17 antlers or horns, carrying the greatest weight, having the
18 longest body, or any similar contest based upon the size or
19 weight of a game animal or part of a game animal. This ~~act~~
20 section does not apply to recognition given by the
21 nationally established and recognized Boone and Crockett
22 trophy institute. ~~A person who violates this section is~~
23 ~~guilty of a misdemeanor and is punishable according to the~~
24 ~~provisions of section 26-324."~~

25 Section 48. Section 26-907, R.C.M. 1947, is amended to

1 read as follows:

2 "26-907. Taxidermist's license — fee — penalty for
3 violations. ~~Any~~ A person who ~~shall engage in, or who is at~~
4 ~~the present time engaged~~ engages in conducting any
5 ~~taxidermist~~ taxidermy business, as the term is generally
6 understood, or any person who conducts a business for the
7 purpose of mounting, preserving, or preparing any of the
8 dead bodies of any birds, or animals, or any part thereof,
9 mentioned in the game laws of this state, must first obtain
10 from the ~~state fish and game~~ director a taxidermist's
11 license and ~~shall~~ pay an annual license fee of ~~fifteen~~
12 ~~dollars (\$15.00)~~ therefor. Such person shall keep a written
13 record of all the articles of game, the kind and number of
14 each, by whom owned, ~~and~~ the residence of owner, ~~also of~~ all
15 the articles of game shipped, and to whom and where shipped.
16 The above record shall be kept for at least a period of ~~one~~
17 ~~(1)~~ year and shall be open to inspection by any state game
18 warden at any reasonable time. ~~Any person violating the~~
19 ~~provisions hereof shall be deemed guilty of a misdemeanor,~~
20 ~~and upon conviction thereof shall be punished as provided by~~
21 ~~section 26-324.~~ In all cases of conviction of violation of
22 this ~~act~~ section, the license of the person convicted shall
23 be revoked. The revocation is to be in addition to any other
24 punishment provided by law."

25 Section 49. Section 26-1008, R.C.M. 1947, is amended

1 to read as follows:

2 "26-1008. ~~Permit for taking~~ Taking fish or game for
3 scientific purposes. It is lawful for the duly accredited
4 representative of an accredited school, college, university,
5 or other institution of learning, or of any governmental
6 agency, who may be investigating a scientific subject making
7 it necessary, to take, kill, capture, and possess for that
8 purpose any birds, fish, or animals protected by Montana law
9 or state fish and game ~~regulation~~ rule. He may take, kill,
10 and capture protected or unprotected birds, fish, or animals
11 in any way, except by the explosion of dynamite. No more of
12 the birds, fish, or animals may be taken than are necessary
13 for the investigation. A person who desires to engage in the
14 scientific investigation shall apply to the director for a
15 permit. The director may set qualifications for persons to
16 whom permits are issued and may place special authorizations
17 or special requirements and limitations on any permit. If
18 the director is satisfied of the good faith and
19 qualifications of the applicant, he shall issue a permit,
20 which shall place a time limit on the collections and may
21 place a restriction on the number of birds, fish, or animals
22 to be taken, and shall require a report of the numbers and
23 species of animals taken by collection areas. The permittee
24 shall pay ~~five dollars (\$5)~~ for the permit. The permittee
25 may not take, have, or capture any other or greater number

1 of birds, fish, or animals than are mentioned in the permit.
2 Any representative of an accredited school, college,
3 university, or other institution of learning who may have
4 various students or associates assisting him throughout the
5 year may apply to have his permit issued to himself and his
6 associates. The associates, when carrying a copy of the
7 permit, shall have the same authorizations and restrictions
8 as the original applicant. The original applicant shall keep
9 a record of all associates to whom he issued a copy of his
10 permit and of the times for which each associate is issued a
11 copy. The original applicant is responsible for his
12 associates' use of the permit or copies of the permit,
13 including their reports of species and numbers of animals
14 collected. ~~A person violating this section is guilty of a~~
15 ~~misdemeanor, punishable as provided by section 26-324."~~

16 Section 50. Section 26-1101, R.C.M. 1947, is amended
17 to read as follows:

18 "26-1101. Creation of game preserves -- general
19 ~~provisions thereof penalties for violation of provisions.~~
20 (1) There are, for the better protection of all the game
21 animals and birds within their limits, game preserves within
22 the state. Except as provided in this section, no person
23 may, within the limits of a game preserve created by the
24 legislature or by the ~~fish and game~~ commission, hunt for,
25 trap, capture, kill, or take game animals, fur-bearing

animals, or birds of any kind. Within the limits of a preserve, a person may not carry or discharge firearms, create any unusual disturbance tending to frighten or drive away any of the game animals or birds, or chase them with dogs. The commission may declare any preserve open to the trapping of fur-bearing animals during the regular open season.

(2) Permits to capture animals or birds for the purpose of propagation or for scientific purposes, to trap fur-bearing animals, to destroy mountain lions, wolves, foxes, coyotes, wildcats, lynx, or other predatory animals or birds, or ~~for carrying to carry~~ firearms may be issued by the director, upon the payment of the fee and in accordance with rules established for the preserve by the commission. ~~A person violating this section or any other law relating to game preserves, is guilty of a misdemeanor and shall be punished as provided by section 26-324.~~

Section 51. Section 26-1306, R.C.M. 1947, is amended to read as follows:

~~"26-1306. Penalty for violations~~ Violations. ~~Any~~ no person, firm, company, or corporation ~~violating may violate~~ any of the provisions of sections 26-1301 ~~to through~~ 26-1305 ~~shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as provided by section 26-324."~~

Section 52. Section 26-1705, R.C.M. 1947, is amended

to read as follows:

~~"26-1705. Penalty-misdemeanor-quarantine--~~
~~Quarantine --~~ cooperation with department of highways. ~~Any person violating any provision of this act shall be deemed guilty of a misdemeanor and shall be punished as prescribed in section 26-324. In addition, the~~ The cargo and vehicle involved in a violation, of 26-1701, 26-1702, or 26-1704 may, at the option of the department, ~~of fish and game shall~~ be either be denied the right to proceed further within the state of Montana or be quarantined until inspected by a designated biologist from the department ~~of fish and game.~~ The department shall inform the department of highways of the provisions regarding importation of salmonid fish and eggs, so that the department of highways may enforce such provisions at ports of entry and checking stations under ~~section 32-2421."~~

Section 53. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

Section 54. Repealer. Sections 26-303.4, 26-307.1, 26-502, 26-909, and 26-922, R.C.M. 1947, are repealed.

-End-

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LC 0051

1977 Legislature
Code Commissioner Bill - Summary

House Bill No. 44

TO REVISE AND CLARIFY THE FISH AND GAME LAWS.

This memorandum serves to explain the reasoning behind the accompanying amendments and repeals relating to the fish and game laws. Each amended section is suggested for amendment because of some problem related to the recodification project. When a section is amended because of recodification, various changes in grammar and style are also made to promote clarity. In the section-by-section explanation which follows, many of these changes will not be mentioned. The omissions permit a memorandum to be prepared rather than a novel. Some general observations are nonetheless appropriate. Terms like "such", "said", "herein", "thereof", etc., are replaced where possible. The phrase "state fish and game" (or a variant) is deleted where it modifies commission, department, director, or warden, inasmuch as 26-101.1 provides title-wide definitions incorporating the phrase. In negative commandments of the form "no person shall...", the word "shall" is replaced by "may" to yield "no person may..." language. This gives the proper mandatory language. "Regulation" is changed to "rule".

The amendments in this bill are arranged in section number order in two groups. The first group (Section 1 through 26) consists of general sections, and the second groups consists of penalty sections related to 26-324. The last section of the bill is a repealer.

Section 1. 26-110.3. The word "any" is added prior to boat in subsection (2) for clarity.

Section 2. 26-132. The term "whites" is changed to "non-Indians", as this is more precise, and "treaty" is changed to "agreement", as the state does not enter into treaties with Indian tribes.

Section 3. 26-134. Section is rewritten for clarity.

Section 4. 26-202.5. Reference to 26-104(15) is deleted, as the section has been repealed, and 26-104.3 is inserted, as it replaces 26-104(15).

Section 5. 26-204. The words "fishing or hunting" are added to modify license in the first sentence to make clear which licenses are involved.

Section 6. 26-215. Reference to subsection (2) in 215(4) is changed to subsection (1) to correct an error; there is nothing to violate in subsection (2).

Section 7. 26-217. Reference to "this act" is deleted, as it is not needed. References to false swearing are deleted as they are covered by 26-204.

Section 8. 26-230. Section is rewritten for clarity.

Section 9. 26-301. The use of "shall" in connection with "no person shall" has been changed to "may" ("no person may"). The penalty provisions at the end of the section are deleted; they are covered by 26-324. 301(9) is deleted as it is covered by 26-129.

Section 10. 26-302. Subsection (3) is deleted because of the new comparative negligence statute.

Section 11. 26-330. Section rewritten for clarity.

Section 12. 26-507. "Their" discretion is changed to "its" discretion for grammatical purposes, other minor grammatical changes.

Section 13. 26-801. Changes are made for clarity and grammar. The term "hotel and restaurant keeper" is changed to "hotel or restaurant keeper" to indicate that its applicability is not limited to those owning both a hotel and a restaurant.

Section 14. 26-802. Same remarks as in section 13 above. "Act" changed to 26-801 through 805 and 26-808 to facilitate recodification.

Section 15. 26-805. Same remarks as in section 13 above. "Act" is deleted, scope of the definitions is to be determined from context.

Sections 16 through 24. 26-904, 908, 912 through 917, and 921. The principal change in these sections is the amendment of references to "this act" to "26-904, 906, 908, and 911 through 921", in order to enable the recodifier to refer to a "part" in the new code. Section 26-907, which was part of "this act" originally deals with taxidermists, and it is not appropriate to keep it with the sections on guides and outfitters. Section 26-922 is recommended for repeal.

Section 21. 26-915. In addition to the change noted above, a reference to 26-916 is made in 915(8) to resolve a conflict over reapplication for licenses.

Section 25. 26-1006. "Act" is changed to "title" because the extensive amending to the 1917 fish and game laws makes it virtually impossible to use any other reference.

Section 26. 26-1102. A new phrase is added which "creates" the Sun River preserve.

Sections 27 through 33. 26-202, 202.2, 213, 228, 232, 306, and 317. These sections have been reworded and the references to "as provided in 26-324" are deleted. A problem could arise with respect to determining the applicable penalty if 26-324 (or its successor MCA section) is amended without changes being made in these sections. This is a result of a court case, *Gustafson v. Hammond Irrigation District*, 87 Mont. 217 (1930). Section 26-324 is the general fish and game penalty section, and repeated references are not needed.

Section 34. 26-324. The phrase "any provision of Title 26" is added to the coverage of this section because of the changes being made in other penalty sections which referred to 324 to set the punishment. A new subsection (2) is added to make 324 supplementary to the penalty section with respect to guiding and outfitting. This was covered by 26-922, but 922 is being recommended for repeal.

Sections 35 through 52. 26-331, 332, 344, 501, 501.1, 503, 512, 701, 704, 705, 708, 804, 811, 907, 1008, 1101, 1306, and 1705. See the remarks for sections 27 through 33.

Section 35. 26-331. In addition to the changes above, "act" is being changed to "title" (see the remarks for section 25).

Section 39. 26-501.1. In addition to the changes above, "or 26-501" is added to references to "this section" so that a reference to a "part" can be made under recodification.

Section 46. 26-804. In addition to the changes above, "this act" is amended to "26-803" which is the only section providing for keeping receipts.

Section 47. 26-811. In addition to the changes above, "act" is amended to "section" since the "act" in question only consists of 811.

Section 48. 26-907. In addition to the changes above, a sentence is added to indicate that license revocation is in addition to the other penalties. This is required by the wording of 26-324 which provides the general penalty. "Act" is changed

to "section" because license revocation for guides and outfitters is treated in 26-904, 906, 908, and 911 through 921.

Section 52. 26-1705. In addition to the changes above, some rewriting was required due to dropping the reference to 26-324.

Section 53. Severability.

Section 54. Repealers.

26-303.4. Covered by 26-324.

26-307.1. Covered by 26-324.

26-502. Covered by 26-501 at present. Originally 501 and 506 were distinct but 1923 amendments to 501 indicate an intent to repeal 502. As 502 reads at present there is some tension with 501.

26-909. In State v. Jack, 32 St. Rep. 858 (1975), the Montana Supreme Court found this section violative of equal protection in distinguishing between resident and nonresident hunters.

26-922. Covered by 26-324 (after suggested amendments).

FISH AND GAME COMMITTEE

January 11, 1977

The meeting was called to order at 11:05 a.m., with all members present except Rep. Conroy, who was excused.

House Bill 44 was discussed. Rep. Bardanouve, chief sponsor, explained that this is a Legislative Council recodification of the fish and game area of the codes. There are no substantive changes in the law in this bill. The Code Commissioner, Diana Dowling, will propose separate legislation if there is need to change the law. There will be no amendments to these bills that will change the meaning of the laws.

John Hollow and Larry Weinberg, attorneys on the staff of the Legislative Council, were present to explain the bill. Mr. Weinberg stated that the recodification project will take present laws and reorganize and regroup them to come up with more coherent codes. These bills are to correct problems that cannot be corrected by simply regrouping. He then went through the bill and discussed all the major items. He requested the committee to give careful consideration to Section 10, page 15 because it is a change. He suggested striking lines 23 and 24 in Section 48, page 54, and going back to page 41, line 21, to add "26-907" after "26-921."

Mr. Weinberg urged the committee members to check and make sure that there are no substantive changes in the law through this bill.

Mr. Hollow suggested that on page 16, line 8 "this type of" should read "this property."

Wes Woodgerd said that the Fish and Game Department has no objection to any of the bill. There were no opponents to the bill.

Mr. Hollow was asked to make a list of proposed amendments for the consideration of the committee members.

The Chairman announced a joint meeting in the Fish and Game building tonight at 7:30 p.m.

There being no further business, the meeting adjourned at 11:55 a.m.

JOHN B. STAIGMILLER, Chairman

FISH AND GAME COMMITTEE

January 13, 1977

The committee was called to order at 11 a.m., with all members present except Representative Ellis, who was excused.

House Bill 76 was discussed. Rep. Mular, chief sponsor, said this bill would make the mourning dove a migratory game bird. Senator Frank Dunkle appeared before the committee as a proponent of the bill. He said the doves are excellent shooting for sportsmen--it takes an average of a box of shells to kill 2 of them. There are problems between landowners and sportsmen because the season for doves is during harvest, but the length of the season could be shortened to take care of this problem. Mr. Wed Woodgerd presented prepared testimony in favor of the bill (attached). There were no opponents.

House Bill 126 was discussed. Rep. Rudaily, chief sponsor, said he was requested to submit this legislation because there is a growing problem of dogs chasing elk and deer, especially when there is deep snow or ice. There is a law giving landowners the right to shoot dogs that chase livestock. The people of Montana have a stake in game animals and they should be able to destroy game-chasing dogs, too. On page 3, the changes in (5) are clarification and recodification language. The substantive change is contained in subsection (b) on page 3, and it is taken verbatim from Idaho law.

There were no opponents. The committee went into executive session to consider the bills.

Rep. Seifert moved that House Bill 76 DO PASS. The motion was seconded and passed unanimously.

Regarding House Bill 126, the Chairman read 46-1916 and 46-1917 (attached) which are about destroying dogs that chase livestock. Rep. Seifert moved that House Bill 126 DO PASS. Rep. Ellison mentioned the possible addition of the language that would give the landowner the right to destroy dogs chasing game animals on their property. Mr. Woodgerd said that he did not know that it was in the Idaho law, but he would check and report back to the committee. Rep. Ellison then made a substitute motion to pass the bill for the day. The substitute motion passed unanimously.

Rep. Ellison moved that the proposed amendments (attached) to House Bill 44 be adopted. The motion was seconded and passed unanimously. He then moved that House Bill 44 DO PASS AS AMENDED. The motion passed unanimously.

There being no further business, the meeting adjourned at 11:30 a.m.

JOHN B. STAIGMILLER, Chairman

MINUTES

FISH AND GAME COMMITTEE

MONTANA STATE SENATE

February 2, 1977

The ninth meeting of the Fish and Game Committee was called to order by Vice-Chairman Warden at 8:00 A.M., in Room 405 of the State Capitol Building.

ROLL CALL: All members were present.

CONSIDERATION OF HB 38, an act to generally revise and clarify the laws relative to game wardens' retirement and death and disability benefits, and amending certain sections to officially recognize and name the Montana State Game Wardens' Retirement System.

Representative Francis Bardanouve, Chief Sponsor of the bill, was present to discuss it. He mentioned that both this bill and HB 44 were recodification bills, and the intent of the bills would be accomplished by 1979. He stated that researchers have found many errors in the law and that one guideline is that there should be no substantive changes. He also pointed out that no one testified against the bill when it was heard in the House.

DISPOSITION OF HB 38: Senator Galt made a motion that HB 38 BE CONCURRED IN. The motion was seconded by Senator Manley and carried unanimously.

CONSIDERATION OF HB 44, an act to generally revise and clarify the laws relating to fish and game.

Representative Bardanouve briefly explained the bill. He reiterated that this is a recodification bill.

Mr. Woodgerd, representing the Montana Fish and Game Department, said the Department staff had reviewed the bill and didn't find any substantive changes; therefore, they supported the bill.

Mr. Ralph Holman, Legislative Chairman of the Montana Outfitters and Guides Association, said his organization supported the bill.

DISPOSITION OF HB44: A motion was made by Senator Manley that HB 44 BE CONCURRED IN. This motion was seconded by Senator Lowe and carried unanimously.

HOUSE BILL NO. 44
INTRODUCED BY BARDANOUVE

A BILL FOR AN ACT ENTITLED: "AN ACT TO GENERALLY REVISE AND CLARIFY THE LAWS RELATING TO FISH AND GAME; REPEALING SECTIONS 26-303.4, 26-307.1, 26-502, 26-909, AND 26-922, R.C.M. 1947."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 26-110.3, R.C.M. 1947, is amended to read as follows:

"26-110.3. ~~Powers~~ Enforcement ~~powers~~ of wardens ~~enforcement search and seizure arrest~~. A warden may:

(1) ~~Serve~~ serve a subpoena issued by a court for the trial of a violator of the fish and game laws;

(2) ~~Search~~ search, without a warrant, any tent not used as a residence, any boat, vehicle, box, locker, basket, creel, crate, game bag, or package, or their contents, upon probable cause to believe that any fish and game law or commission rule, for the protection, conservation, or propagation of game, fish, birds, or fur-bearing animals, has been violated;

(3) ~~Search~~ search, with a search warrant, any dwelling house or other building;

(4) ~~Seize~~ seize game, fish, game birds, and fur-bearing animals, and any parts of them, taken or possessed in violation of the law or the rules of the commission;

(5) ~~Seize~~ seize and hold, subject to law or the orders of the commission, devices which have been used to unlawfully take game, fish, birds, or fur-bearing animals;

(6) ~~Arrest~~ arrest, in accordance with ~~title~~ Title 95, chapter 6, a violator of a fish and game law or rule of the commission, violation of which is a misdemeanor;

(7) ~~Exercise~~ exercise the other powers of peace officers in the enforcement of the fish and game laws, the rules of the commission, and judgments obtained for violation of those laws or rules."

Section 2. Section 26-132, R.C.M. 1947, is amended to read as follows:

"26-132. Authority for commission to make agreement with Indians concerning hunting and fishing. ~~That the state fish and game~~ The commission ~~be, and the same is hereby authorized, empowered and enabled to~~ may negotiate and conclude an agreement with the council of the Confederated Salish and Kootenai tribes of the Flathead Indian reservation for the purpose of obtaining and establishing for the citizens of Montana, regularly licensed to hunt and fish in the state, the privileges of hunting and fishing on

1 Indian lands on the Flathead Indian reservation, ~~and~~ for
2 the purpose of the conservation and protection of fish, ~~and~~
3 game and fur-bearing animals on such Indian lands, and on
4 lands adjacent thereto; and for the ~~farther~~ purposes of
5 setting dates for the opening and closing of seasons for
6 hunting and fishing on such lands for Indians and ~~whites~~
7 non-Indians alike, opening and closing of streams and land
8 areas for hunting and fishing, ~~and of~~ doing what in its
9 judgment is necessary by way of granting to such tribal
10 Indians state permits to hunt and fish, to be issued without
11 charge to such Indians, ~~of~~ stocking streams and land areas
12 of such Indian lands for the common benefit, ~~of~~ policing
13 such Indian lands for the protection of fish and game, and
14 in general ~~to carry~~ carrying out the purposes of this ~~act~~
15 section. ~~Provided, however, that if~~ If any part of such
16 ~~treaty agreement shall provide~~ provides for the payment of
17 money ~~in the premises to such the tribes, such that~~ part
18 shall must first have the approval of the state
19 legislature."

20 Section 3. Section 26-134, R.C.M. 1947, is amended to
21 read as follows:

22 "26-134. Allocation of funds to school districts. The
23 county commissioners of any county receiving ~~such funds, as~~
24 provided in 26-133, shall be, and they are, hereby
25 authorized to may allocate, in such amounts as they

1 determine, any portion of ~~such the~~ funds to any school
2 district in ~~said the~~ county, ~~which whenever the~~ school
3 district ~~shall contain~~ contains any ~~of said department~~
4 lands, ~~in such amounts as they shall determine; and any~~ Any
5 balance remaining, after allocations have been made to
6 school districts, shall be credited to the general fund of
7 ~~said the~~ county."

8 Section 4. Section 26-202.5, R.C.M. 1947, is amended
9 to read as follows:

10 "26-202.5. ~~Provision for nonresident~~ Nonresident bear
11 license. (1) The ~~state fish and game commission may issue~~
12 ~~special licenses in the manner provided in subsection 15 of~~
13 ~~section 26-104, as provided in 26-104.3, to nonresidents to~~
14 hunt black or brown bear, including any color phase of black
15 bear. ~~Such The~~ special nonresident license shall be valid
16 only for the area designated on the license and shall expire
17 on ~~the thirty-first (31st) day of August 31~~ of each year.
18 The fee for ~~such the~~ special nonresident license shall be
19 ~~thirty-five dollars (\$35)~~. There shall be a permit included
20 with ~~such the~~ special nonresident license, to authorize the
21 holder thereof to ship, transport, or remove out of state
22 any bear or part thereof taken under authority of ~~said the~~
23 license.

24 (2) The ~~fish and game commission is authorized to~~
25 promulgate rules ~~and regulations~~ relative to tagging,

1 possession, or transportation of bear within or without the
2 state."

3 Section 5. Section 26-204, R.C.M. 1947, is amended to
4 read as follows:

5 "26-204. Application for license. (1) Such a fishing
6 ~~or hunting~~ license ~~shall~~ may be procured from the ~~state fish~~
7 ~~and game~~ director, or any ~~state fish and game~~ warden, or any
8 authorized agent of the ~~state fish and game~~ director. The
9 applicant shall state his name, age, occupation, place of
10 residence, post-office address, the length of time in the
11 state of Montana, whether a citizen of the United States or
12 an alien, and such other facts, data, or descriptions as may
13 be required by the commission. The statements made by the
14 applicant shall be subscribed to before the officer or agent
15 issuing ~~said~~ the license.

16 (2) It is unlawful to subscribe to any application
17 containing a material false statement. Any material false
18 statement contained in an application renders it, and any
19 license issued pursuant to it, ~~null and void~~. Any person
20 violating any provision of this statute is guilty of a
21 misdemeanor."

22 Section 6. Section 26-215, R.C.M. 1947, is amended to
23 read as follows:

24 "26-215. ~~Exception from general provisions~~
25 Spotlighting unlawful — EXCEPTIONS FOR MINORS FROM LICENSE

1 REQUIREMENTS. (1) It ~~shall be~~ is unlawful for any person or
2 one ~~(1)~~ or more of a group of persons together to throw or
3 cast the rays of a spotlight having a luminance of greater
4 than .75 candlepower attached to or cast from a motorized
5 vehicle into any field, pasture, woodland, forest, or
6 prairie wherein wildlife or domestic livestock may be, or
7 may be reasonably expected to be, while having in his
8 possession or their possession or under control a firearm or
9 other implement whereby any wildlife or domestic animal
10 could be killed by aid of an artificial light; ~~provided,~~
11 ~~however,~~ except that all officers authorized to enforce the
12 game and livestock laws of the state of Montana and all
13 landowners, lessees, or their agents, while on their own
14 lands in connection with their legitimate activities, and
15 employees of such landowners, lessees, and agents ~~shall be~~
16 are exempt from the provisions of this ~~act~~ section.

17 (2) ~~Provided—the~~ The provisions of this section ~~shall~~
18 do not apply where the headlights of a motor vehicle,
19 operating and proceeding in a normal manner, on any highway
20 or roadway, cast a light upon such animal on or adjacent to
21 the highway or roadway, and there is no intent or attempt to
22 locate that animal.

23 (3) Minors under ~~fifteen~~ (15) years of age may fish
24 for and take fish, during the open season without a
25 license~~s~~, ~~provided, however, that~~ However, no nonresident

1 person, under the age of ~~fifteen~~ {15} years, shall may fish
 2 in or on any Montana waters without first having obtained a
 3 Class B, B-2, or B-3 fishing license, unless ~~such~~ the
 4 nonresident person under the age of ~~fifteen~~ {15} years shall
 5 be is in the company of an adult in possession of a valid
 6 Montana fishing license, ~~provided that the~~ The limit of
 7 fish for ~~such~~ the nonresident person and the accompanying
 8 adult, combined, shall may not exceed the limit for one
 9 adult as established by law or by ~~regulation~~ rule of the
 10 commission.

11 (4) A person convicted of violating subsection ~~(2)~~ (1)
 12 of this section shall be fined not to exceed ~~five hundred~~
 13 ~~dollars~~ {500} or be imprisoned in the county jail for any
 14 term not to exceed ~~six~~ {6} months, or both."

15 Section 7. Section 26-217, R.C.M. 1947, is amended to
 16 read as follows:

17 "26-217. Alteration or transfer of license. No person
 18 shall may at any time alter or change in any material
 19 manner, or loan or transfer to another, any license ~~issued~~
 20 ~~in pursuance to the provisions of this act~~, nor shall may
 21 any person other than the person to whom it is issued use
 22 ~~the same it~~. ~~Any person who shall swear or affirm to any~~
 23 ~~false statement in application for a hunting, fishing or~~
 24 ~~trapping license, shall be guilty of a misdemeanor, and, on~~
 25 ~~conviction thereof, shall be punished as provided by law.~~

1 ~~Any false statement contained in any application for such~~
 2 ~~license shall render the license null and void."~~

3 Section 8. Section 26-230, R.C.M. 1947, is amended to
 4 read as follows:

5 "26-230. Application — ~~hunting, fishing or trapping~~
 6 ~~license tags, to be affixed or recorded on wildlife~~
 7 ~~conservation license fees stamp attachment — fee —~~
 8 expiration. (1) A wildlife conservation license shall be
 9 sold upon written application. The application shall contain
 10 the applicant's in such form and containing his name, age,
 11 occupation, place of residence, post-office address, and
 12 length of time in the state of Montana; state whether the
 13 applicant is a citizen of the United States or an alien ~~and~~
 14 ~~present a driver's license or other identification to~~
 15 ~~substantiate such information and shall; and be subscribed~~
 16 ~~by the applicant. The applicant shall present a driver's~~
 17 ~~license or other identification to substantiate the~~
 18 information.

19 (2) Hunting, fishing, or trapping licenses in the form
 20 of tags or stamps issued to a holder of a wildlife
 21 conservation license must be affixed to or recorded on the
 22 wildlife conservation license according to such ~~regulations~~
 23 rules as the commission may prescribe.

24 (3) Resident and nonresident wildlife conservation
 25 licenses may be purchased for a fee of ~~one dollar~~ {1}.

1 (4) Licenses issued shall be void after the ~~thirtieth~~
2 ~~(20th)~~ day of April 30 next succeeding their issuance."

3 Section 9. Section 26-301, R.C.M. 1987, is amended to
4 read as follows:

5 "26-301. Restrictions ~~of~~ on manner of taking and
6 possessing fish and game and powers of commission relating
7 thereto. (1) It ~~shall be~~ is unlawful for anyone to take,
8 capture, shoot, kill, or attempt to take, capture, shoot, or
9 kill, any game animal, or game bird from any ~~self-propelled~~
10 self-propelled or drawn vehicle, or on, or from any public
11 highway in the state of Montana, or by the aid or with the
12 use of any set gun, ~~jack-light~~ jacklight, or other
13 artificial light, trap, snare, or salt lick; nor shall may
14 any such set gun, ~~jack-light~~ jacklight, or other artificial
15 light, trap, snare, salt lick, or other device to entrap or
16 entice game animals or game birds be used, made, or set;
17 ~~nor may rifles~~ Rifles may not be used to hunt or shoot
18 upland game birds unless the use of rifles is permitted by
19 the commission, ~~provided, however, that this~~ This does not
20 prohibit the shooting of wild waterfowl from blinds over
21 decoys with a shotgun only, not larger than a number ~~ten~~
22 ~~(10)~~ gauge, fired from the shoulder, nor shall may any game
23 fish be caught, captured, or taken, or attempted to be
24 caught, captured, or taken by the aid or with the use of any
25 gun, or trap, nor shall may any such set gun, ~~or~~ trap, or

1 other device to entrap game fish be used, made, or set.

2 (2) (a) No game birds or game or fur-bearing animals
3 shall may be killed, taken, or shot at from any aircraft;
4 nor shall may any aircraft be used for the purpose of
5 concentrating, pursuing, driving, rallying, or stirring up
6 any game or migratory birds, or game or fur-bearing
7 animals; nor shall may any powerboat, sailboat, or any boat
8 under sail or any floating device towed by a powerboat,
9 sailboat, or any boat under sail be used for the purpose of
10 killing, capturing, taking, pursuing, concentrating,
11 driving, or stirring up any upland game birds, or game or
12 fur-bearing animals.

13 (b) No person in an aircraft in the air shall may spot
14 or locate any game, or migratory bird, or game or
15 fur-bearing animals animal and communicate the location or
16 approximate location thereof by any signals whatsoever,
17 whether radio, visual, or otherwise, to any person or
18 persons then on the ground.

19 (3) No person shall may take into a field or forest,
20 or have in his possession while out hunting, any device or
21 mechanism devised to silence, ~~or~~ muffle, or minimize the
22 report of any firearms, whether such device or mechanism be
23 operated from or attached to any firearm.

24 (4) No person may use a shotgun to hunt, kill, or
25 shoot deer except with loads as specified by the commission.

1 (5) No person shall may chase with dogs any of the
2 game or fur-bearing animals as defined by the fish and game
3 laws of this state; ~~provided, however, that~~ livestock
4 owners, ~~or~~ employees of the ~~state fish and game~~ commission
5 and of the federal fish and wildlife service may use dogs in
6 pursuit of stock-killing bears, and stock-killing mountain
7 lions, or may use other means of taking stock-killing bears
8 and stock-killing mountain lions, except the use of the ~~dead~~
9 ~~fall deadfall~~, ~~providing, however, that traps~~ Traps used in
10 capturing ~~bear~~ bears shall be inspected twice each day,
11 ~~which inspection shall inspections are to~~ be ~~twelve~~ twelve (12)
12 hours apart, ~~and provided further, that a~~ person may take
13 game birds during the open season ~~thereon~~ with the aid of a
14 dog or dogs ~~and any~~, Any person or association organized for
15 the protection of game, may run field trials at any time
16 upon obtaining written permission from the ~~state fish and~~
17 ~~game~~ director.

18 (6) The ~~state fish and game~~ commission shall have the
19 power to designate certain waters where ~~set lines~~ setlines
20 may be used to fish for certain species of game or nongame
21 fish, and the commission may designate the number of hooks
22 and lines and the length of line or lines which may be used
23 as ~~set lines~~ setlines.

24 (7) Game fish shall be taken only by angling, that is
25 by hook and single line in hand or single rod in hand, or

1 within immediate control, ~~this~~ This does not prevent,
2 however;

3 (a) the snagging of paddlefish, coho (silver salmon),
4 and kokanee (sockeye salmon) when the commission shall
5 ~~declare~~ declares an open season when paddlefish, coho
6 (silver salmon), and kokanee (sockeye salmon) may be taken
7 by snagging;

8 (b) the taking of paddlefish with long bow and arrow
9 when the commission ~~shall declare~~ declares an open season
10 when paddlefish may be taken by long bow and arrow;

11 (c) the taking of walleyed pike, sauger, northern
12 pike, and nongame fish with spear or gig when the commission
13 ~~shall declare~~ declares an open season for taking walleyed
14 pike, sauger, northern pike, and nongame fish with spear or
15 gig, ~~or~~;

16 (d) the use of landing net or gaff to land a game fish
17 after the same has been hooked by angling as above
18 specified, ~~nor does it prevent~~; or

19 (e) the taking of minnows other than game fish variety
20 by the use or aid of a net not to exceed ~~twelve~~ (12) feet in
21 length and ~~four~~ (4) feet in width, in such waters as may be
22 designated by the commission.

23 (8) No person, while hunting game animals or game
24 birds, shall may use a motor-driven vehicle ~~or any~~ other
25 than on an established road or trail, unless he has reduced

1 a big game animal to possession and cannot easily retrieve
 2 ~~said the big game animal,~~ in which In that case a
 3 motor-driven vehicle may be used to retrieve the big game
 4 animal, except in areas where more restrictive regulations
 5 apply or where the landowner has not granted such
 6 permission, ~~provided that after such,~~ After the retrieval,
 7 ~~such the~~ motor-driven vehicle is again to be returned to an
 8 established road or trail by the shortest possible route.
 9 For purposes of safety and allowing normal travel, a
 10 motor-driven vehicle may be parked on the roadside or
 11 directly adjacent to ~~said a~~ road or trail. No person, while
 12 hunting game animals or game birds, ~~shall may~~ drive or
 13 attempt to drive, run or attempt to run, molest or attempt
 14 to molest, flush or attempt to flush, or harass or attempt
 15 to harass any game animal or game bird with the use or aid
 16 of any motor-driven vehicle. No person, while hunting game
 17 animals or game birds, ~~shall may~~ drive through any retired
 18 cropland, brush area, slough area, timber area, open
 19 prairie, or unharvested or harvested cropland, except upon
 20 an established road or trail unless written permission has
 21 been given by the ~~land owner~~ landowner and is in possession
 22 of the hunter. The restrictions in this subsection on
 23 motor-driven vehicle use off an established road or trail
 24 apply only to hunting on state or private land, not to
 25 hunting on federal land unless the federal agency

1 specifically requests or approves state enforcement.
 2 ~~(9) Whenever said fish and game commission shall have~~
 3 ~~made any orders, rules or regulations for the carrying out~~
 4 ~~of the powers granted to it under this act, the same shall~~
 5 ~~take effect and be in force from and after the publication~~
 6 ~~and posting of notice of said orders, rules and regulations~~
 7 ~~as required by the fish and game laws.~~
 8 ~~(10) (9)~~ The provisions of this section relating to
 9 methods of herding, driving, capturing, taking, locating, or
 10 concentrating of fish, game animals, game birds, or
 11 fur-bearing animals do not apply to the department ~~of fish~~
 12 ~~and game,~~ or to any employee thereof, while acting within
 13 the scope and course of the powers and duties of the
 14 department.
 15 ~~Any person violating any of the provisions of this~~
 16 ~~section shall be deemed guilty of a misdemeanor and shall be~~
 17 ~~punishable as provided by law."~~
 18 Section 10. Section 26-302, R.C.M. 1947, is amended to
 19 read as follows:
 20 "26-302. Big game hunters to wear colored garments.
 21 (1) It ~~shall be~~ is unlawful for any person to hunt any of
 22 the big game animals in this state or to accompany any
 23 hunter as an outfitter or guide under any of the provisions
 24 of the laws of this state without ~~such the~~ person wearing as
 25 exterior garments above the waist a total of not less than

~~four hundred~~ {400} square inches of hunter orange material visible at all times while hunting.

(2) "Hunter orange" means a daylight fluorescent orange color.

(3) This section ~~shall~~ does not apply to any person hunting with a bow and arrow during the special archery season.

~~(3) Failure of any person to comply with this section shall not be treated as evidence of contributory negligence in a civil action for injury to him or for his wrongful death.~~

(4) The commission shall make ~~regulations~~ rules to implement this section."

Section 11. Section 26-330, R.C.M. 1947, is amended to read as follows:

"26-330. Federal ~~government may conduct~~ fish-hatching operations ~~in state~~. The government of the United States, the United States commissioner of fisheries, and its or his duly authorized agent or agents, ~~be and they are hereby authorized, empowered and granted the right to~~ may conduct fish-hatching and all operations connected therewith, [in any manner and at any time that may ~~by them, or any of them,~~ be considered necessary and proper, by them] at any United ~~State States~~ fish cultural station that may hereafter be established by the United States government in the state of

Montana."

Section 12. Section 26-507, R.C.M. 1947, is amended to read as follows:

"26-507. Certificate of sale. Upon the sale of ~~such~~ property as provided in 26-506, the officer shall issue a certificate to the purchasing party ~~purchasing the same,~~ certifying that the purchaser has the legal right to be in possession of the ~~game, property~~ and that anyone so acquiring ~~said this type of~~ property from the state is prohibited from reselling ~~such property and free~~ or using the same for any commercial purpose. During an auction only one carcass of either deer, moose, or elk ~~shall may~~ be purchased per person. At ~~their its~~ discretion, the ~~fish and game~~ department may donate unsold carcasses to welfare departments, public institutions, or charitable institutions."

Section 13. Section 26-801, R.C.M. 1947, is amended to read as follows:

"26-801. ~~Lawful for merchants, hotels or restaurants to possess and sell game not killed within state~~ Possession of game by merchants or hotel or restaurant keepers. It ~~shall be~~ is lawful for any merchant, ~~hotel~~ hotelkeeper, or restaurant keeper to have in his possession, ~~and to offer~~ for sale, ~~and to~~ or sell game and game birds, provided, ~~that said the game and or game birds are set and have not~~

1 been killed within the state of in Montana."

2 Section 14. Section 26-802, R.C.M. 1987, is amended to
3 read as follows:

4 "26-802. Evidence of lawful possession of game ~~must be~~
5 ~~produced, when. It shall be the duty of every~~ Each merchant,
6 ~~hotel hotelkeeper, and or~~ restaurant keeper, having in his
7 possession and offering for sale any game or game birds, ~~to~~
8 shall produce upon demand, for the inspection of any game
9 warden, ~~or~~ deputy game warden, or sheriff, the receipt or
10 record and shipping and transportation receipts required
11 ~~hereby in 26-803 to be kept by him, and a, a~~ failure or
12 refusal to produce the same upon demand, coupled with the
13 possession and offering for sale of game or game birds,
14 ~~shall constitute is~~ prima facie evidence of the violation of
15 ~~this act 26-801 through 26-805 and 26-808."~~

16 Section 15. Section 26-805, R.C.M. 1987, is amended to
17 read as follows:

18 "26-805. Definitions. ~~In the construction of this act~~
19 ~~the~~ The words "game" and "game birds" or "parts of the
20 same", ~~shall be construed to mean the game animals and game~~
21 birds, the killing of which is restricted or forbidden by
22 the laws of Montana, ~~and the~~ The words "merchant," "hotel
23 ~~and hotelkeeper", or "restaurant keeper," shall include mean~~
24 each and every manager, servant, agent, and or employer of
25 such person."

1 Section 16. Section 26-904, R.C.M. 1987, is amended to
2 read as follows:

3 "26-904. Who ~~deemed~~ considered outfitter. (1) For the
4 ~~purpose purposes~~ of ~~this act 26-904, 26-906, 26-908, and~~
5 ~~26-911 through 26-921~~, the word "outfitter" ~~shall mean means~~
6 any person, ~~or~~ persons, company, or corporation who ~~shall~~
7 engage;

8 (a) engages in the business of outfitting for hunting
9 or fishing parties, as the term is commonly understood, ~~the~~
10 shall;

11 (b) for consideration ~~provide provides~~ any saddle or
12 pack animal ~~or animals~~ or personal service for hunting or
13 fishing parties, or camping equipment, vehicles, or other
14 conveyance, except boats, for any person ~~or persons~~ to hunt,
15 trap, capture, take, or kill any game, ~~or the shall~~;

16 (c) for consideration ~~furnish furnishes~~ a boat or
17 other floating craft and ~~accompany accompanies~~ any person ~~or~~
18 persons for the purpose of catching fish, ~~or the shall aid~~
19 ~~or assist~~.

20 (d) aids or assists any person ~~or persons~~ in locating
21 or pursuing any game animal.

22 (2) The providing of the ~~above mentioned~~
23 above-mentioned services, property, or equipment shall be
24 conclusively presumed to have been for consideration for
25 ~~purposes of this act the purposes of 26-904, 26-906, 26-908,~~

1 and 26-911 through 26-921 if the same, or any thereof, are
2 provided by any person, company, or corporation for more
3 than two ~~(2)~~ parties or two ~~(2)~~ other persons during any
4 calendar year or on more than two ~~(2)~~ occasions during any
5 such calendar year."

6 Section 17. Section 26-908, R.C.M. 1947, is amended to
7 read as follows:

8 "~~26-908. Outfitters and guides law definitions~~
9 Definitions. As used in this act 26-904, 26-906, 26-908, and
10 26-911 through 26-921, unless the context requires
11 otherwise, the following definitions apply:

12 (1) "Outfitter" has the definition given it in ~~section~~
13 ~~26-904~~;

14 (2) "Professional guide" means a person who is an
15 employee of an outfitter and who furnishes only personal
16 guiding services in assisting a person to hunt or take game
17 animals or fish and who does not furnish any facilities,
18 transportation, or equipment;

19 (3) "Resident guide" means a resident who guides
20 resident or nonresident friends for the purpose of hunting
21 game animals without compensation;

22 (4) "Advisory council" means the Montana outfitters'
23 council provided for in ~~section~~ 82A-2005;

24 (5) "Resident" means a person who qualifies for a
25 resident Montana hunting or fishing license under ~~section~~

1 26-202.3;

2 (6) "Nonresident" means a person other than a
3 resident;

4 (7) "License year" means that period commencing May 1
5 and ending April 30 of the next year."

6 Section 18, Section 26-912, R.C.M. 1947, is amended to
7 read as follows:

8 "~~26-912. Outfitters' council powers and duties.~~ The
9 council shall have the authority and duty to make
10 recommendations to the commission and the director as to:

11 (1) ~~Outfitter~~ outfitter standards;

12 (2) Rules ~~rules~~ of procedures and ~~regulations~~ rules to
13 effectuate ~~this act 26-904, 26-906, 26-908, and 26-911~~
14 through 26-921, including but not limited to rules
15 prescribing all requisite qualifications for license. These
16 qualifications shall include training, experience, knowledge
17 of rules ~~and regulations~~ of governmental bodies pertaining
18 to outfitting, and condition and type of gear and equipment;

19 (3) ~~Hearings~~ hearings and proceedings to suspend or
20 revoke licenses of outfitters and guides and to recommend
21 suspension or revocation of licenses for due cause;

22 (4) ~~for any~~ any reasonable rules, ~~and regulations~~ not in
23 conflict with ~~this act 26-904, 26-906, 26-908, and 26-911~~
24 through 26-921, necessary for safeguarding the health,
25 safety, and welfare of those persons utilizing the services

1 of outfitters and for the protection of landowners and the
2 general public."

3 Section 19. Section 26-913, R.C.M. 1947, is amended to
4 read as follows:

5 "~~26-913. Rules and regulations for outfitting and~~
6 ~~guiding~~ Authorization for rules. (1) The ~~fish and game~~
7 ~~commission shall have the authority to~~ may adopt,
8 promulgate, and enforce rules and ~~regulations~~ recommended by
9 the advisory council as provided in ~~section 5~~ [26-912] and
10 all other rules and ~~regulations~~ it may ~~deem~~ consider proper
11 for the ~~proper~~ administration and enforcement of the
12 provisions of ~~this act~~ 26-904, 26-906, 26-908, and 26-911
13 through 26-921 and the regulation of outfitting and guiding
14 to provide for the services to the public."

15 Section 20. Section 26-914, R.C.M. 1947, is amended to
16 read as follows:

17 "26-914. Requirement of license as outfitter or guide
18 — services performed — standards. (1) No person ~~shall~~ may
19 act as an outfitter, professional guide, or resident guide,
20 or advertise as an outfitter, without first securing a
21 license in accordance with the provisions of ~~this act~~
22 26-904, 26-906, 26-908, and 26-911 through 26-921.

23 (2) Whenever an outfitter is engaged by any person, or
24 a resident guide takes out nonresident friends, ~~said~~ the
25 outfitter or resident guide shall keep and submit records as

1 required by the ~~fish and game~~ commission.

2 (3) Outfitters and their employees ~~shall~~ may not
3 shoot, kill, or take big game animals for or in competition
4 with those employing them while acting under employment as
5 an outfitter.

6 (4) Outfitters and resident guides utilizing lands
7 under the control of the United States government shall
8 obtain the proper permits required by the government office
9 responsible for the area in which the outfitter or resident
10 guide intends to operate, and shall comply ~~to~~ with
11 environmental protection standards established for these
12 lands.

13 (5) An outfitter ~~shall~~ may not willfully and
14 substantially misrepresent his facilities, prices,
15 equipment, services, or hunting.

16 (6) Outfitters and their employees shall take every
17 reasonable measure to provide their advertised services to
18 their clients."

19 Section 21. Section 26-915, R.C.M. 1947, is amended to
20 read as follows:

21 "~~26-915. Application for license — contents —~~
22 ~~requirements and qualifications — fees.~~ (1) Each applicant
23 for an outfitter's or professional guide's license shall
24 make application for license upon a form to be prescribed
25 and furnished by the ~~fish and game~~ commission which shall

1 include:

2 (a) ~~The~~ the applicant's full name, address, and
3 telephone number;

4 (b) ~~The~~ the address of his principal place of business
5 in the state of Montana;

6 (c) ~~The~~ the amount and kind of property and equipment
7 owned and used in the outfitting business of the applicant,
8 if an outfitter's license application is involved;

9 (d) ~~The~~ the experience of the applicant, including
10 years of experience as an outfitter or guide, knowledge of
11 areas in which he has operated and intends to operate, and
12 ability to cope with weather conditions and terrain;

13 (e) ~~A~~ a signed statement of the licensed outfitter by
14 whom the professional guide is to be employed, that the ~~said~~
15 guide is in fact, to be employed by such outfitter and
16 stating that ~~said~~ the outfitter recommends the applicant for
17 his qualifications;

18 (f) ~~A~~ a statement by a ~~Montana fish and game~~ warden to
19 the ~~fish and game~~ director that the equipment listed on the
20 application has been inspected by ~~said~~ the warden and that
21 the same is in fact, owned or leased by the applicant, and
22 is in good operating condition, and is sufficient and
23 satisfactory for the services advertised or contemplated to
24 be performed by such applicant;

25 (g) ~~A~~ a statement of the maximum number of guests to

1 be taken at any one ~~44~~ time;

2 (h) ~~Each new applicant who intends to outfit on a~~
3 ~~national forest must have~~ the written approval of the
4 rangers in whose district he will establish hunting camps,
5 ~~and such written approval shall accompany the application if~~
6 the applicant intends to outfit on a national forest.

7 ~~44~~ 12 Applications for outfitter's license shall be
8 in the name of an individual person only. Applications
9 involving corporations or partnerships shall be made by one
10 individual person who qualifies under the provisions of ~~this~~
11 ~~act 26-904, 26-906, 26-908, and 26-911 through 26-921; and~~
12 any license issued pursuant thereto shall be in the name of
13 that person; and the license shall specifically state that
14 the same is issued for the use and benefit of the named
15 corporation or partnership involved. Any revocation or
16 suspension of such a license is binding upon the individual
17 person and the partnership or corporation for the use and
18 benefit of which the license was originally issued.
19 Application shall be made to and filed with the director.

20 ~~42~~ 13 Each applicant for, and holder of, an
21 outfitter's license or any renewal thereof, shall, in the
22 opinion of the director, meet the following qualifications:

23 (a) ~~Be~~ be a person of at least ~~eighteen~~ 18 years of
24 age, in possession of all natural faculties, of ordinary
25 intelligence, and in such physical condition as to be able

1 to perform his duties as an outfitter-;

2 (b) ~~Be~~ be a citizen of the United States and a
3 resident of Montana for a full ~~two~~ (2) years, unless the
4 residency requirement is waived by the ~~fish and game~~
5 commission-;

6 (c) ~~To~~ own or hold under written lease or ~~to~~ represent
7 a company, corporation, or partnership who owns or holds
8 under written lease the equipment and facilities as ~~is~~ are
9 necessary to provide the services advertised, contracted
10 for, or agreed upon between the outfitter and his clients-
11 All (all) equipment and facilities shall be subject to
12 inspection at all reasonable times and places by the ~~fish~~
13 ~~and game~~ commission or its designated agent-;

14 (d) ~~Be~~ be a person who has demonstrated a respect for,
15 and compliance with, the laws of any state or of the United
16 States and all ~~regulations~~ rules promulgated thereunder, as
17 to matters of fish and game, conservation of natural
18 resources, and preservation of the natural ecosystem without
19 pollution thereof-;

20 (e) ~~Have~~ have not been convicted, or forfeited bond,
21 of ~~one hundred dollars~~ (\$100) or more on more than one (4)
22 violation of the fish and game laws of any state or the
23 United States within the past ~~five~~ (5) years-;

24 (f) ~~Have~~ have not, at any time, practiced fraud,
25 deception, or material misrepresentation in procuring any

1 previous outfitter's or guide's license from the state of
2 Montana-;

3 (g) ~~Have~~ have not, at any time, promulgated any false
4 or misleading advertising relating to the business of
5 outfitting-;

6 (h) ~~Have~~ have not been finally adjudged by a court of
7 law, guilty of any substantial breach of written or oral
8 contract with any person utilizing the applicant's services
9 as an outfitter or guide during the license year immediately
10 preceding that for which the application is made-;

11 (i) ~~Have~~ have not committed any negligent act or
12 misconduct while acting as an outfitter or guide which
13 negligence or misconduct caused a danger or unreasonable
14 risk of danger to person or property of any client of such
15 outfitter or guide during the license year immediately
16 preceding that for which the application is made-;

17 (j) ~~Have~~ have not, at any time, been convicted of a
18 felony, unless civil rights have been restored pursuant to
19 law. No person may apply for, or hold an outfitter's
20 license during any period of time in which a deferred
21 sentence has been imposed for a felony.

22 (k) ~~Have~~ have substantially complied with all ~~fish and~~
23 ~~game~~ department regulations and state and federal laws
24 concerning outfitters and guides, if the applicant has
25 previously held a license as ~~such~~ an outfitter or guide-;

(1) ~~Pass~~ pass a standard examination administered by the ~~fish and game~~ director, or an agent designated by him, which ~~said~~ examination shall require general and sufficient knowledge displaying and indicating ability to perform the services contemplated with efficiency and with safety to the health and welfare of persons employing such services. The ~~said~~ examination shall test the applicant's knowledge of subjects which shall apply to the type of license applied for in the following subjects:

- (i) ~~Fish~~ fish and game laws and regulations-;
- (ii) ~~Practical~~ practical woodsmanship-;
- (iii) ~~General~~ general knowledge of big game-;
- (iv) ~~Field~~ field preparation of trophies-;
- (v) ~~Care~~ care of game meat-;
- (vi) ~~Use~~ use of outfitter's gear as shown on the application-;
- (vii) ~~Knowledge~~ knowledge of area and terrain-;
- (viii) ~~Knowledge~~ knowledge of firearms-;
- (ix) ~~Federal~~ federal and state regulations as applicable to outfitting-;
- (x) ~~Practical~~ practical first aid.

~~(2)(4)~~ Each an applicant for a professional guide's license shall meet the following requirements:

- (a) ~~Be~~ be a person of at least ~~eighteen~~ 18 years of age, in possession of all natural faculties, of ordinary

intelligence, and in such physical condition as to be able to perform his duties as a professional guide-;

- (b) ~~Be~~ be a citizen of the United States and a resident of Montana as defined in ~~this act~~ 26-908;

- (c) ~~Be~~ be endorsed and recommended by an outfitter with a valid license.

~~(4)(5)~~ A resident guide shall have been issued a valid resident wildlife conservation license.

~~(5)(6)~~ Residence requirements for procuring an outfitter's license are ~~hereby~~ waived as to persons who are citizens of a common boundary state and of a common county thereof to the same extent the home state of the applicant waives such requirements for the residents of Montana, except for fee.

(7) For the purpose of obtaining a guide's license only, nonresident professional guides employed by resident outfitters shall be considered resident professional guides.

~~(6)(8)~~ Applications shall be ~~made to and filed with the fish and game director and~~ accompanied by a license fee as herein stipulated, which will be refunded if and when the application is denied-; ~~The fee is to be used in investigation of the applicant, in enforcement of this act, and for administrative costs.~~

- (a) Resident resident outfitter's license fee..\$50.00;

- (b) Resident resident professional guide's fee.\$15.00;

~~Resident guide's license is a valid Montana wildlife conservation license.~~

(c) Nonresident nonresident outfitter's license fee...
.....\$150.00;

(d) Nonresident nonresident professional guide's fee..
.....\$100.00;

(9) A resident guide's license is a valid Montana wildlife conservation license.

(10) The license fee shall be used to investigate the applicant, to enforce 26-904, 26-906, 26-908, and 26-911 through 26-921, and for administrative costs.

(11) Provided, however, that if If the nonresident resides in a state requiring residents of the state of Montana to pay in excess of said such amounts for a similar license, the fee for such nonresident outfitters or guides shall be the same amount as ~~such~~ the higher fee charged in the state where ~~such~~ the nonresident resides.

~~(7) (12)~~ The ~~fish and game~~ director in his discretion may cause to be made such additional investigation and inquiry, relative to the applicant for outfitter's license and an applicant's qualifications as he ~~shall deem~~ considers advisable. The director may deny or refuse to issue any new license or to renew any previous license if, in his opinion, the applicant does not meet the qualifications herein stated. In the event that any application for license is

denied or refused, the director shall immediately notify the applicant, setting forth in the notice the grounds upon which the denial or refusal is based. Final decision as to issuance of renewal ~~applications~~ licenses shall be made not later than ~~thirty~~ (30) days from the date of receipt of the completed application for renewal ~~of license~~, and ~~upon a new application~~, not later than ~~ninety~~ (90) days from the date of receipt of ~~the a~~ completed application for a new license. A licensee in good standing ~~shall be~~ is entitled to a new license for the ensuing license year upon complying with the provisions of this section, but is exempt from having to retake the written examination.

~~(8) (13)~~ Only one ~~(4)~~ application for an outfitter or guide's license may be made any one ~~(4)~~ license year. If any application is denied, subsequent applications by the same applicant for the license year involved are ~~null and void~~, except as provided in 26-916(1)(b).

Section 22. Section 26-916, R.C.M. 1947, is amended to read as follows:

"26-916. Kinds of ~~license issued~~ licenses. (1) After receipt of the application and when all the conditions and requirements of ~~this act~~ 26-904, 26-906, 26-908, and 26-911 through 26-921 have been satisfied, the ~~fish and game~~ director shall issue either of the following licenses, depending upon his determination of the applicant's ability

and the service that the applicant can perform with the equipment listed on his application.

(a) A general license authorizing him to perform all the functions of an outfitter as that term is defined in section 26-904, R.C.M. 1947, or

(b) A special license authorizing him to perform only the function of outfitting listed on the license. The license shall be in the form prescribed, and shall be valid for the licensing year in which issued. If the application is denied, the fish and game director shall notify the applicant, in writing, of the reasons for the denial, and if the reasons are corrected, a license shall be issued upon reapplication thereof.

(2) For the purpose ~~purposes~~ of ~~this act 26-904, 26-906, 26-908, and 26-911 through 26-921~~, a person may serve as a professional guide under his employer's license after submitting his application with the proper license fee, until the license is issued or for ten (10) days after notification of the rejection of the license.

(3) To be valid, a professional guide's license must bear the signature and outfitter's license number of an endorsing outfitter and is valid only while the holder of such license is employed by an endorsing outfitter.

(4) No outfitter's license may be transferred during any license year, provided that an

individual person may, upon proper showing, have his outfitter's license amended to indicate that he is holding ~~such the~~ license for the use and benefit of a named partnership or corporation.

(5) No person may hold more than one (1) outfitter's license either for his own benefit or for the use and benefit of a partnership or corporation, nor may the name of any partnership or corporation appear on more than one (1) current outfitter's license.

(6) Notwithstanding any other provision or law, a license shall expire on the last day of the license year for which it was issued."

Section 23. Section 26-917, R.C.M. 1947, is amended to read as follows:

"26-917. Deposit of fees. All fees collected under the provisions of this act 26-904, 26-906, 26-908, and 26-911 through 26-921 shall be deposited as provided in section 26-121, R.C.M., 1947."

Section 24. Section 26-921, R.C.M. 1947, is amended to read as follows:

"26-921. Enforcement. The warden or ex officio warden, designated by the department to primarily administer outfitting and guiding laws and regulations rules, and other wardens, and all peace officers shall enforce this act 26-904, 26-906, 26-908, and 26-911 through 26-921."

1 Section 25. Section 26-1006, R.C.M. 1947, is amended
2 to read as follows:

3 "26-1006. ~~Not applicable to~~ Exception in cases of
4 extreme hunger. When it is shown that any violation of the
5 provisions of this ~~act~~ title was for the purpose of
6 preventing great suffering by hunger of any person ~~or~~
7 ~~persons~~, which could not otherwise have been avoided, the
8 provisions of this ~~act~~ title shall not apply to ~~said the~~
9 case."

10 Section 26. Section 26-1102, R.C.M. 1947, is amended
11 to read as follows:

12 "26-1102. Sun ~~river~~ River game preserve. There is a
13 Sun River game preserve described as follows: Beginning
14 beginning at a point on the continental divide of the Rocky
15 ~~mountains~~ Mountains, due south of the head or source of the
16 south fork of the north fork of Sun ~~river~~ River, in what
17 will be, when surveyed, section eight, township eighteen
18 north of range ten west, Montana meridian, ~~when surveyed~~;
19 thence due north from the crest of the continental divide to
20 the head of the south fork of the north fork of Sun ~~river~~
21 River; thence northerly along and down the course of the
22 south fork of the north fork of Sun ~~river~~, River as it winds
23 and turns to its confluence with the north fork of the north
24 fork of Sun ~~river~~ River; thence northerly along the course
25 of the north fork of the north fork of Sun ~~river~~, River as

1 it winds and turns to its head or source; thence due north
2 to the crest of the continental divide of the Rocky
3 ~~mountains~~ Mountains; thence along the crest, of the
4 continental divide of the Rocky ~~mountains~~ Mountains
5 southwesterly and southerly to the place of beginning,
6 intending hereby to include in said game preserve all that
7 territory lying between the ~~said~~ south fork of the north
8 fork and the ~~said~~ north fork of the north fork of Sun ~~river~~
9 River on the east, and the continental divide of the Rocky
10 ~~mountains~~ Mountains on the west."

11 Section 27. Section 26-202, R.C.M. 1947, is amended to
12 read as follows:

13 "26-202. License required. It ~~shall be~~ is unlawful and
14 ~~a misdemeanor punishable as provided by section 26-324~~ for
15 any person to:

16 (1) pursue, hunt, trap, take, shoot, or kill or
17 attempt to trap, take, shoot, or kill, any game animal, ~~or~~
18 any game bird, or any fur-bearing animal, ~~or to~~ take, kill,
19 trap, or fish, for any fish within this state, ~~or to~~ have,
20 keep, or possess, within this state, any game animal, game
21 bird, fur-bearing animal, ~~or~~ game fish, or parts thereof,
22 except as herein provided or ~~shall be~~ as provided by the
23 ~~state fish and game commission, or for any person~~

24 (2) ~~to~~ pursue, hunt, trap, take, shoot, or kill, or
25 attempt to trap, take, shoot, or kill, any game animal, game

bird, or fur-bearing animal, or take, kill, trap, or fish for, any fish, except at the places and during the periods and in the manner herein defined or shall be as defined by the state fish and game commission, or for any person to

(3) pursue, hunt, trap, take, shoot, or kill, or attempt to trap, take, shoot, or kill, any game animal, game bird, or fur-bearing animal, or take, kill, trap, or fish for, any fish within this state, or have, keep, possess, sell, purchase, ship, or reship, any imported or other fur-bearing animal, or parts thereof, without first having obtained a proper license or permit from the commission so to do so."

Section 28. Section 26-202.2, R.C.S. 1947, is amended to read as follows:

"26-202.2. Special Restrictions on special licenses—tagging of carcasses of game animals. (1) Special licenses authorized to be issued under the general powers of the department of fish and game may be issued only to persons holding valid big game licenses for the current year, which have been obtained by the applicant prior to the time of filing of application for a special license.

(2) Any person who has obtained a grizzly bear, moose, mountain goat, or mountain sheep license shall be eligible to apply for another such license for the next succeeding seven (7) years, if such person has killed or

taken an animal of the species for which such the special license was issued. Any person who has obtained a grizzly bear, moose, mountain goat, or mountain sheep license but did not kill or take an animal of the species for which such the special license was issued, shall be eligible to apply for another such license in any succeeding year if he returns his unused special license to the department of fish and game before or at the time application is made. It is further provided that any person who has received a special license for elk shall be not be eligible to receive a second special license for this species of game animal during any license year. However, in the event the number of applications received is not equal to the number of game species desired to be killed by the department, reapplication may be made by those valid license holders of the current year who may fall within these limitations. It is further provided that any person who has killed or taken a game animal, except a deer, during the current license year, shall be not be permitted to receive a special license under this act chapter to hunt or kill a second game animal of the same species.

(3) Tagging of carcasses of game animals. Every license issued by the department authorizing the holder thereof to pursue, shoot, kill, capture, take, or possess game animals, whether issued to a resident or a nonresident,

1 shall provide such tags, coupons, or markers, as the
 2 department shall ~~prescribe~~ prescribes, and when any person
 3 ~~should take tags or kill kills~~ any game animal under ~~such~~
 4 ~~the~~ license, ~~such the~~ person shall immediately thereafter
 5 cut out, from the tag, coupon, or other marker, the date the
 6 animal was killed or taken and attach the tag, coupon, or
 7 other marker to ~~said the~~ animal, completely filled out with
 8 the name of the license holder, his address, and any other
 9 information requested on ~~such the~~ tag, coupon, or other
 10 marker, ~~and such Such~~ tag, coupon, or other marker shall be
 11 kept attached to ~~said the~~ carcass so long as any
 12 considerable portion of the carcass remains unconsumed, and
 13 when the proper tag, coupon, or other marker is attached to
 14 ~~said the~~ game animal so killed, the same may be possessed,
 15 used, stored, and transported. ~~Any~~ It is unlawful for a
 16 person, who should kill kills any game animal by authority
 17 of any license issued for the killing of ~~such the~~ game
 18 animal, ~~and shall to~~ fail or neglect to cut out ~~the~~ day and
 19 month of ~~the~~ kill or provide such other information as is
 20 required and attach his tag, coupon, or other marker so
 21 provided with the license issued, to the carcass of ~~said the~~
 22 game animal or portion thereof, ~~or any It is unlawful for a~~
 23 ~~person who shall to~~ fail to keep ~~said the~~ tag, coupon, or
 24 other marker attached to ~~said the~~ game animal or portion
 25 thereof while the same is possessed by him ~~shall be guilty~~

1 ~~of a misdemeanor and upon conviction thereof shall be~~
 2 ~~punished as provided for by law in section 26-324."~~

3 Section 29. Section 26-213, R.C.M. 1947, is amended to
 4 read as follows:

5 "26-213. Carrying and exhibiting license. It is
 6 unlawful ~~and a misdemeanor punishable as provided by section~~
 7 ~~26-324~~ for any person to whom a license or permit has been
 8 issued to fish for or take any fish, or pursue, hunt, shoot,
 9 kill, or take any game bird or game animal or attempt to
 10 trap, ~~or~~ trap, or take any fur-bearing animal in this state
 11 unless ~~at the time~~ he has the license, ~~or~~ licenses, or
 12 permit, in his possession at the time. It is unlawful to
 13 refuse to exhibit a license or permit for inspection to a
 14 warden or other officer requesting to see it."

15 Section 30. Section 26-228, R.C.M. 1947, is amended to
 16 read as follows:

17 "26-228. Rules and ~~regulations~~ to implement reciprocal
 18 agreements — violations. The ~~state fish and game~~ commission
 19 is ~~hereby~~ authorized to establish rules and ~~regulations~~ for
 20 the purpose of implementing ~~said~~ agreements established
 21 under 26-225. ~~Any person violating It is unlawful to~~
 22 violate any orders or regulations rules promulgated by the
 23 ~~state fish and game~~ commission under ~~this act shall, upon~~
 24 ~~conviction, be deemed guilty of a misdemeanor and shall be~~
 25 ~~punished as provided in section 26-324~~ 26-225 through

1 26-228."

2 Section 31. Section 26-232, R.C.M. 1947, is amended to
3 read as follows:

4 "26-232. ~~Misdemeanor penalty False statements in~~
5 ~~license application. Any person who shall~~ It is unlawful to
6 subscribe to any false statement in an application for a
7 wildlife conservation license ~~or violate any other provision~~
8 ~~of this act shall be guilty of a misdemeanor, and, on~~
9 ~~conviction thereof, shall be punished as provided in section~~
10 26-324."

11 Section 32. Section 26-306, R.C.M. 1947, is amended to
12 read as follows:

13 "26-306. Private Fish pond license for artificial lake
14 ~~or pond stocking license bond reports restrictions on~~
15 ~~catching fish penalty for violation.~~ (1) A person who owns
16 or lawfully controls an artificial lake or pond may apply to
17 the director for a fish pond license. The holder of a
18 private fish pond license may stock his fish pond with fry
19 procured from any lawful source. The commission may
20 designate the species of fish which may be released in the
21 pond when there is a possibility of fish escaping from the
22 pond into adjacent streams or lakes. The license holder may
23 take fish from the lake or pond in any manner. Before a
24 license holder may sell fish or eggs or fry from the lake or
25 pond, he shall furnish a corporate surety bond to the state

1 for ~~five hundred dollars (\$500)~~, conditioned to the effect
2 that he will not sell fish or spawn from any of the public
3 waters of this state, and also conditioned to the effect
4 that he will report to the director the quantity of fish,
5 fish eggs, and spawn taken from the lake or pond. This
6 report shall be made under oath annually during the month of
7 January. A record of all transactions must be kept showing
8 the species and numbers or pounds of fish sold, number and
9 species of eggs sold, number and species of fry sold, name
10 of person or persons to whom sold, and the date of
11 transaction.

12 (2) "Artificial lake or pond" as used in this section
13 does not include a natural pond or body of water created by
14 natural means, ~~nor~~ or any portion of the ~~stream bed~~
15 streambed or ~~lake bed~~ lakebed thereof. It includes only
16 bodies of water created by artificial means or diversion of
17 water which do not exceed ~~five hundred~~ (500) acres of
18 surface area.

19 ~~(3) A person violating this section is guilty of a~~
20 ~~misdemeanor and shall be punished as provided in section~~
21 26-324."

22 Section 33. Section 26-317, R.C.M. 1947, is amended to
23 read as follows:

24 "26-317. Destroying Unlawful to destroy evidence of
25 ~~sex constitutes misdemeanor. Any~~ It is unlawful for any

1 person killing ~~any~~ a big game animal within this state who
2 shall to destroy such evidence of the sex of ~~any~~ the big
3 game animal so killed, so as to make the determination of
4 the sex thereof uncertain, shall be guilty of a misdemeanor
5 and upon conviction thereof, shall be punished as provided
6 in section 26-324."

7 Section 34. Section 26-324, R.C.M. 1947, is amended to
8 read as follows:

9 "26-324. Penalty. (1) A person violating any provision
10 of Title 26, any other state law pertaining to fish and game
11 thereto, or the orders, or rules, and regulations of the
12 commission is, unless a different punishment is expressly
13 provided by law for the violation, guilty of a misdemeanor
14 and shall be fined not less than ~~twenty-five dollars~~ (\$25)
15 ~~nor or~~ more than ~~five hundred dollars~~ (\$500), or imprisoned
16 in the county jail for not more than ~~six~~ (6) months, or both
17 ~~fined and imprisoned~~. In addition, the person shall, in the
18 discretion of the court, forfeit his license and privilege
19 to hunt, fish, or trap within this state for a period of
20 ~~sixteen~~ (16) months from the date of conviction.

21 (2) Notwithstanding the provisions of subsection (1),
22 the penalties provided by this section shall be in addition
23 to any penalties provided in 26-904, 26-906, 26-908, and
24 26-911 through 26-921 AND 26-907."

25 Section 35. Section 26-331, R.C.M. 1947, is amended to

1 read as follows:

2 "26-331. Sale of fish or spawn prohibited unlawful —
3 exceptions. ~~Every~~ No person who may, for speculative
4 purposes, for market, or for sale, in any way, catches catch
5 any of the fish which in this act title are classified as
6 "game fish" or who shall remove or cause to be removed the
7 eggs or spawn of any such fish, ~~for speculative purposes,~~
8 ~~for market or for sale, or who shall~~ No person may sell or
9 offer for sale any of the game fish of this state as defined
10 in this act ~~defined~~, title or the eggs or spawn therefrom,
11 shall be deemed guilty of a misdemeanor and shall be
12 punishable as provided by section 26-324, provided, however,
13 that this This section shall does not apply to fish caught
14 in private ponds by the owners thereof ~~and or~~ to the taking
15 of fish by the state authorities for the purpose of
16 obtaining eggs for propagation in state fish hatcheries, or
17 by any person who receives a permit from the state fish and
18 game commission to take eggs for ~~said~~ such purposes."

19 Section 36. Section 26-332, R.C.M. 1947, is amended to
20 read as follows:

21 "26-332. ~~Method of catching fish use of traps, seines~~
22 ~~and nets restrictions concerning possession and sale of~~
23 fish Restrictions on fishing methods. (1) ~~Every~~ It is
24 unlawful for a person who takes or catches to take or catch
25 fish in any of the waters of this state, except with hook

1 and line held in hand or line and hook attached to rod or
 2 pole held in hand, ~~or who takes or catches to take or catch~~
 3 fish with hook baited with any poisonous substance or by
 4 means of the use of any poisonous substance, including fish
 5 berries, ~~or who takes or catches to take or catch~~ fish by
 6 means of the use of fishtraps, ~~grab-hooks~~ grabhooks, seines,
 7 nets, or other similar means for catching fish, ~~shall be~~
 8 ~~guilty of a misdemeanor and upon conviction thereof, shall~~
 9 ~~be punished as provided for in section 26-324, and the~~
 10 ~~amendments thereto, provided, however, that the The Montana~~
 11 ~~fish and game commission shall have the power, authority,~~
 12 ~~and jurisdiction, to may~~ designate such waters within the
 13 state of Montana, wherein, in the judgment of the members of
 14 said the commission, spears or gigs may be used for taking
 15 walleyed pike, sauger, northern pike, and nongame fish, and
 16 traps, seines, ~~or~~ nets, and rubber or ~~spring-propelled~~
 17 spring-propelled spears, when employed by sportsmen swimming
 18 or submerged in the water, may be used for the taking of
 19 designated species of fish, ~~and to close such The~~ waters so
 20 designated may be closed at the discretion of the
 21 commission, ~~and to permit the taking of black bass in~~
 22 ~~Flathead Lake, the The~~ taking of all fish by said such means
 23 in said the waters, when so designated, is to be done under
 24 such rules and regulations as said the commission may
 25 prescribe with reference thereto, and under the supervision

1 of said the commission, ~~and all All~~ such nongame fish so
 2 taken may be possessed and sold in such manner and under
 3 such restrictions as said the commission may direct, all
 4 All fish, other than those herein designated, so taken under
 5 said commission rules and regulations, when prescribed by
 6 said the commission, shall be returned uninjured to the
 7 waters from which they were taken.

8 (2) The taking of black bass in Flathead Lake may be
 9 permitted by the commission."

10 Section 37. Section 26-344, B.C.M. 1947, is amended to
 11 read as follows:

12 "26-344. Restrictions on use of fish as bait --
 13 ~~commission must authorize introduction of fish or game~~
 14 unlawful introduction of fish or game. (1) The state fish
 15 ~~and game commission shall have authority to may~~ prohibit the
 16 use of small fish as bait for catching fish in such waters
 17 as the commission shall designate designates. It shall have
 18 ~~the power to may~~ promulgate such other regulations rules as
 19 are necessary to insure an adequate supply of fish in said
 20 such waters, ~~including the power to and may~~ regulate fishing
 21 from boats or other floating devices and ~~to regulate~~ the use
 22 of fishing lures and/or baits in all waters of the state.

23 (2) It shall be is unlawful for any person ~~or persons~~
 24 to transplant or introduce any fish or fish eggs into any
 25 body of water in the state, and it ~~shall be is~~ unlawful for

any person ~~or persons~~ to transplant or introduce any species of game birds, game ~~and~~ or fur-bearing animals, ~~and~~ or nongame wildlife into the state of Montana without first having obtained authorization from the ~~fish and game~~ commission.

~~Any person found guilty of a violation of the provisions of this act shall be guilty of a misdemeanor and upon conviction thereof shall be punished as provided for in section 26-324.~~

Section 38. Section 26-501, R.C.M. 1947, is amended to read as follows:

"26-501. Protection of wild birds ~~other than game birds and their nests and eggs.~~ It is unlawful for a person who hunts, captures, kills, possesses, purchases, offers or exposes for sale, ships, or transports to hunt, capture, kill, possess, purchase, offer or expose for sale, ship, or transport any wild bird, other than a game bird, or any part of the plumage, skin, or body of the bird, irrespective of whether the bird was captured or killed within the state, or to take or destroy the nest or eggs of a wild bird, except under a certificate, falconer's license, or permit issued by the ~~state fish and game~~ director ~~is guilty of a misdemeanor and shall be punished as provided by section 26-324.~~ This section does not apply to the hunting, trapping, or killing of house sparrows, crows, starlings,

rock doves, blackbirds, ~~and~~ magpies, and other birds the ~~fish and game~~ commission designates, or to the taking or destruction of their nests and eggs."

Section 39. Section 26-501.1, R.C.M. 1947, is amended to read as follows:

"26-501.1. Protection and conservation of raptors -- falconry. (1) "Raptors", when used in this section or 26-501, means all birds of the orders falconiformes and strigiformes, commonly called falcons, hawks, eagles, ospreys, and owls.

(2) A person may not at any time hunt, capture, kill, possess, purchase, offer or expose for sale, or transport a raptor except as provided in this section or 26-501.

(3) The commission may adopt specific rules for the keeping of records, and for the trapping, taking, possession, or training of raptors used in the practice of falconry, and may authorize the issuance of licenses to persons for the practice of falconry. It is unlawful for any person to possess a raptor or to train a raptor in the practice of falconry without a license.

(4) The peregrine falcon (*Falco peregrinus*), bald eagle (*Haliaeetus leucocephalus*), golden eagle (*Aquila chrysaetos*), and osprey (*Pandion haliaetus*) may not be captured in this state for the sport of falconry.

(5) The fee for a falconry license is ~~three dollars~~

1 ~~{3}~~ a year or any part of a year. A license expires April
2 30 each year.

3 (6) A license may not be issued to a person under the
4 age of ~~twelve~~ {12} years.

5 (7) Species of raptors which are native to North
6 America may be brought into Montana for the purpose of
7 falconry unless that action is specifically prohibited by
8 this section or 26-501, the laws of other states, or the
9 ~~regulations~~ rules of the federal government. Those raptors
10 may be possessed, subject to this section or 26-501. A
11 person bringing a raptor into this state must be able to
12 show proof of the area of origin.

13 (8) A licensee may not at any time possess more than
14 three ~~{2}~~ raptors, including those that have been imported.

15 (9) Licensees may take raptors as young or fledglings
16 from nests (unless specifically prohibited by commission
17 rules), or by traps or nets which are humane in their
18 operation and use. Not more than one ~~{4}~~ young may be taken
19 from one ~~{4}~~ nest by a permittee or permittees, and at least
20 one ~~{4}~~ young must be left in the nest. The commission may
21 close an area of the state to the taking of raptors at any
22 time or designate other raptors which may not be taken. This
23 subsection does not permit the removal of raptors in any
24 national or state refuge or park or in any area in which
25 local laws may prohibit that activity. Trapping raptors is

1 permitted only between September 1 and February 1.

2 (10) Raptors may not be used to intentionally flush or
3 harass big game.

4 (11) Raptors may not be loosed intentionally at
5 protected mammals and birds. Game bird limits and all
6 seasons and other ~~regulations~~ rules relating to game birds
7 must be obeyed.

8 (12) A licensee may not transfer ownership or
9 possession of a raptor taken or possessed under the
10 provisions of this section without notifying the department
11 ~~of fish and game~~ within ~~ten~~ {10} days after the date of
12 transfer.

13 (13) Licensees shall have in possession a valid
14 falconer's license when engaged in the practice of falconry.
15 In addition, falconers loosing raptors at game birds shall
16 have in possession a valid resident or nonresident game bird
17 license.

18 (14) Falconry licenses or permits are not transferable
19 and may be revoked for due cause at any time by the
20 department.

21 (15) A person may not sell or offer for sale Montana
22 raptors in this state. A person may not transport raptors
23 out of the state except by permit issued by the department.

24 {16} Nonresidents who are working, attending schools,
25 or otherwise living temporarily in the state of Montana may

1 obtain a Montana falconry license and bring raptors, legally
2 acquired in other states or countries, into the state of
3 Montana; such nonresidents shall be allowed to hunt with
4 falcons in the state of Montana subject to all Montana laws
5 and ~~regulations~~ rules.

6 ~~(16) A person who violates this section or section~~
7 ~~26-501 is guilty of a misdemeanor and shall be prosecuted~~
8 ~~under section 26-324.~~

9 (17) Predatory hawks and owls destroying livestock or
10 poultry may be killed at any time by the livestock or
11 poultry owners. Eagles may be killed in compliance with
12 federal law and regulation."

13 Section 40. Section 26-503, R.C.M. 1947, is amended to
14 read as follows:

15 "26-503. Possession of unlawfully killed animals and
16 of unlawful fishing implements ~~—prima facie evidence—~~
17 ~~penalty.~~ (1) The possession of dead bodies, or any part
18 thereof, of any of the game fish, game or nongame birds, or
19 game or fur-bearing animals defined by the fish and game
20 laws of the state of Montana ~~shall be~~ is prima facie
21 evidence that ~~such~~ the person or persons in whose possession
22 the same are found have killed, caught, or taken the same,
23 and the possession of a fishing rod and line, spear, gig, or
24 barbed fork, on the banks or shores of a stream or lake
25 ~~shall be~~ is prima facie evidence that the person or persons

1 in whose possession the same are found ~~was~~ were using the
2 same to fish.

3 ~~(2) Any person who shall~~ It is unlawful to possess,
4 have, ~~or~~ hold, ~~or~~ purchase, ~~or~~ keep in storage, or possess
5 for any other purpose, any game fish, game bird, nongame
6 bird, game animal, fur-bearing animal, or parts thereof,
7 which ~~shall have been~~ were unlawfully killed, captured, or
8 taken, ~~or who shall unlawfully~~ No person may unlawfully use
9 any fishing rod and line, ~~or~~ fishing lines, spear, gig, or
10 barbed fork, ~~shall be guilty of a misdemeanor and punished~~
11 ~~as provided by section 26-324."~~

12 Section 41. Section 26-512, R.C.M. 1947, is amended to
13 read as follows:

14 "26-512. ~~Penalty for violation~~ Failure to tag turkey.
15 ~~Any~~ It is unlawful for any person who ~~shall kill, capture or~~
16 ~~possess~~ kills, captures, or possesses any wild turkey by
17 authority of any turkey tag or permit ~~and shall to~~ fail or
18 neglect to attach his tag to the turkey, or ~~shall~~ fail to
19 validate his tag by filling out or punch marking the tag as
20 required and fail to keep the tag attached while the same is
21 possessed by him, ~~shall be guilty of a misdemeanor and upon~~
22 ~~conviction, shall be punished as provided for in section~~
23 ~~26-324."~~

24 Section 42. Section 26-701, R.C.M. 1947, is amended to
25 read as follows:

1 "26-701. Removal of animals or parts of animals from
2 the state unlawful, ~~when illegally taken~~. It is hereby
3 ~~declared to be unlawful and a misdemeanor, punishable as~~
4 ~~provided by section 26-324~~, for any person or persons, to
5 possess, ~~or to~~ ship or take out of the state any illegally
6 taken game ~~and~~ or nongame birds, fish, game animals,
7 fur-bearing animals, ~~or~~ the skins of fur-bearing animals, or
8 any parts thereof, whether taken within or coming from
9 without the state."

10 Section 43. Section 26-704, R.C.M. 1947, is amended to
11 read as follows:

12 "26-704. Labeling of packages ~~for shipment from state~~.
13 All shippers of fish, game or nongame birds, game animals,
14 fur-bearing animals, ~~or~~ the skins of fur-bearing animals or
15 predatory animals, or parts thereof are hereby required to
16 label all packages offered for shipment by parcel post,
17 common carrier, or otherwise, ~~such~~ The label ~~to~~ shall be
18 securely attached to the address of the package and shall
19 plainly indicate the names and addresses of the consignor
20 and consignee and the complete contents of ~~said~~ the package.
21 ~~All persons violating any of the provisions of this act~~
22 ~~shall be deemed guilty of a misdemeanor, and upon~~
23 ~~conviction, shall be punished in the manner provided by~~
24 ~~section 26-324.~~"

25 Section 44. Section 26-705, R.C.M. 1947, is amended to

1 read as follows:

2 "26-705. ~~Violations of provisions relating to~~
3 ~~shipment penalty confiscation~~ Violation by carriers. No
4 person ~~or persons~~, or the agent or employee of any common
5 carrier, association, stage, express, railway, or
6 transportation company, ~~shall may~~ transport or receive for
7 transportation or carriage or sell or offer for sale any of
8 the game animals, game or nongame birds, fish, fur-bearing
9 animals, ~~or~~ the skins of fur-bearing animals, or parts
10 thereof, except as specifically provided for by ~~this act~~,
11 26-704, and ~~all~~ All game or nongame birds, fish, game
12 animals, ~~or~~ fur-bearing animals, or parts thereof, had in
13 possession, or which have been shipped or are being
14 transported in violation of any of the provisions of this
15 act, shall be seized, confiscated, and disposed of as
16 provided by law. ~~Any person violating any of the provisions~~
17 ~~of this act shall be guilty of a misdemeanor and punished in~~
18 ~~the manner provided by section 26-324.~~"

19 Section 45. Section 26-708, R.C.M. 1947, is amended to
20 read as follows:

21 "26-708. Commercial exportation of aquatic insects
22 prohibited. It is ~~hereby declared to be~~ unlawful ~~and a~~
23 ~~misdemeanor, punishable as provided by section 26-324~~, for any
24 person ~~or persons~~, to ship or take out of the state any
25 aquatic insects for speculative purposes, for market, or for

1 sale. This section ~~shall~~ does not apply to aquatic insects
2 caught in private ponds by the owners thereof."

3 Section 46. Section 26-804, R.C.M. 1947, is amended to
4 read as follows:

5 "26-804. Noncompliance with law ~~a misdemeanor. Any~~ It
6 is unlawful for any person ~~who shall to~~ have in his
7 possession, and offer for sale, or sell any game or game
8 birds without having complied with the provisions of ~~this~~
9 ~~act~~ 26-803 relating to the keeping of a record and shipping
10 and transportation receipts, ~~shall be guilty of a~~
11 ~~misdemeanor and punished in the manner provided by section~~
12 ~~26-324."~~

13 Section 47. Section 26-811, R.C.M. 1947, is amended to
14 read as follows:

15 "26-811. Contests based on size of game animals
16 unlawful. Except as provided in this section, it is unlawful
17 for any person, as defined in ~~section~~ 26-201, to conduct or
18 sponsor in any manner a contest in which a prize is offered
19 to a person who kills a game animal possessing the largest
20 antlers or horns, carrying the greatest weight, having the
21 longest body, or any similar contest based upon the size or
22 weight of a game animal or part of a game animal. This ~~act~~
23 section does not apply to recognition given by the
24 nationally established and recognized Boone and Crockett
25 trophy institute. ~~A person who violates this section is~~

1 ~~guilty of a misdemeanor and is punishable according to the~~
2 ~~provisions of section 26-324."~~

3 Section 48. Section 26-907, R.C.M. 1947, is amended to
4 read as follows:

5 "26-907. Taxidermist's license — fee — penalty for
6 violations. ~~Any~~ A person who ~~shall engage in, or who is at~~
7 ~~the present time engaged~~ engages in conducting any
8 ~~taxidermist~~ taxidermy business, as the term is generally
9 understood, or any person who conducts a business for the
10 purpose of mounting, preserving, or preparing any of the
11 dead bodies of any birds, or animals, or any part thereof,
12 mentioned in the game laws of this state, must first obtain
13 from the ~~state fish and game~~ director a taxidermist's
14 license and ~~shall~~ pay an annual license fee of ~~fifteen~~
15 ~~dollars (\$15.00)~~ therefor. Such person shall, keep a written
16 record of all the articles of game, the kind and number of
17 each, by whom owned, and the residence of owner, ~~also of all~~
18 the articles of game shipped, and to whom and where shipped.
19 The above record shall be kept for at least a period of ~~one~~
20 ~~(1)~~ year and shall be open to inspection by any state game
21 warden at any reasonable time. ~~Any person violating the~~
22 ~~provisions hereof shall be deemed guilty of a misdemeanor,~~
23 ~~and upon conviction thereof shall be punished as provided by~~
24 ~~section 26-324.~~ In all cases of conviction of violation of
25 this ~~act~~ section, the license of the person convicted shall

1 be revoked. ~~The revocation is to be in addition to any other~~
 2 ~~punishment provided by law.~~"

3 Section 49. Section 26-1008, R.C.M. 1947, is amended
 4 to read as follows:

5 "26-1008. ~~Permit for taking~~ Taking fish or game for
 6 scientific purposes. It is lawful for the duly accredited
 7 representative of an accredited school, college, university,
 8 or other institution of learning, or of any governmental
 9 agency, who may be investigating a scientific subject making
 10 it necessary, to take, kill, capture, and possess for that
 11 purpose any birds, fish, or animals protected by Montana law
 12 or state fish and game ~~regulation rule~~. He may take, kill,
 13 and capture protected or unprotected birds, fish, or animals
 14 in any way, except by the explosion of dynamite. No more of
 15 the birds, fish, or animals may be taken than are necessary
 16 for the investigation. A person who desires to engage in the
 17 scientific investigation shall apply to the director for a
 18 permit. The director may set qualifications for persons to
 19 whom permits are issued and may place special authorizations
 20 or special requirements and limitations on any permit. If
 21 the director is satisfied of the good faith and
 22 qualifications of the applicant, he shall issue a permit,
 23 which shall place a time limit on the collections and may
 24 place a restriction on the number of birds, fish, or animals
 25 to be taken, and shall require a report of the numbers and

1 species of animals taken by collection areas. The permittee
 2 shall pay ~~five dollars (\$5)~~ for the permit. The permittee
 3 may not take, have, or capture any other or greater number
 4 of birds, fish, or animals than are mentioned in the permit.
 5 Any representative of an accredited school, college,
 6 university, or other institution of learning who may have
 7 various students or associates assisting him throughout the
 8 year may apply to have his permit issued to himself and his
 9 associates. The associates, when carrying a copy of the
 10 permit, shall have the same authorizations and restrictions
 11 as the original applicant. The original applicant shall keep
 12 a record of all associates to whom he issued a copy of his
 13 permit and of the times for which each associate is issued a
 14 copy. The original applicant is responsible for his
 15 associates' use of the permit or copies of the permit,
 16 including their reports of species and numbers of animals
 17 collected. ~~A person violating this section is guilty of a~~
 18 ~~misdemeanor, punishable as provided by section 26-224.~~"

19 Section 50. Section 26-1101, R.C.M. 1947, is amended
 20 to read as follows:

21 "26-1101. Creation of game preserves -- general
 22 ~~provisions thereof penalties for violation of provisions.~~
 23 (1) There are, for the better protection of all the game
 24 animals and birds within their limits, game preserves within
 25 the state. Except as provided in this section, no person

say, within the limits of a game preserve created by the legislature or by the ~~fish and game~~ commission, hunt for, trap, capture, kill, or take game animals, fur-bearing animals, or birds of any kind. Within the limits of a preserve, a person may not carry or discharge firearms, create any unusual disturbance tending to frighten or drive away any of the game animals or birds, or chase them with dogs. The commission may declare any preserve open to the trapping of fur-bearing animals during the regular open season.

(2) Permits to capture animals or birds for the purpose of propagation or for scientific purposes, to trap fur-bearing animals, to destroy mountain lions, wolves, foxes, coyotes, wildcats, lynx, or other predatory animals or birds, or ~~for carrying to carry~~ firearms may be issued by the director, upon the payment of the fee and in accordance with rules established for the preserve by the commission. ~~A person violating this section or any other law relating to game preserves, is guilty of a misdemeanor and shall be punished as provided by section 26-324.~~

Section 51. Section 26-1306, R.C.M. 1947, is amended to read as follows:

"26-1306. ~~Penalty for violations~~ Violations. Any ~~no~~ person, firm, company, or corporation ~~violating may violate~~ any of the provisions of ~~sections 26-1301 to through~~ 26-1305

~~shall be guilty of a misdemeanor and upon conviction thereof, shall be punishable as provided by section 26-324."~~

Section 52. Section 26-1705, R.C.M. 1947, is amended to read as follows:

"26-1705. ~~Penalty misdemeanor quarantine~~ Quarantine -- cooperation with department of highways. Any ~~person violating any provision of this act shall be deemed guilty of a misdemeanor and shall be punished as prescribed in section 26-324. In addition, the~~ The cargo and vehicle ~~involved in a violation, of 26-1701, 26-1702, or 26-1704 may, at the option of the department, of fish and game shall be either be denied the right to proceed further within the state of Montana or be~~ be quarantined until inspected by a designated biologist from the department ~~of fish and game~~. The department shall inform the department of highways of the provisions regarding importation of salmonid fish and eggs, so that the department of highways may enforce such provisions at ports of entry and checking stations under ~~section 32-2421."~~

Section 53. Severability. If a part of this act is invalid, all valid parts that are severable from the invalid part remain in effect. If a part of this act is invalid in one or more of its applications, the part remains in effect in all valid applications that are severable from the invalid applications.

- 1 Section 54. Repealer. Sections 26-303.4, 26-307.1,
- 2 26-502, 26-909, and 26-922, R.C.M. 1947, are repealed.

-End-